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South Dakota. Laws, Statutes, etc.
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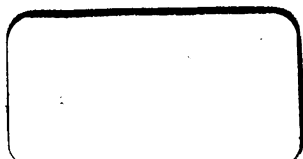
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LAWS

PASSED AT

THE SECOND SESSION

OF THE

LEGISLATURE

OF THE

State of South Dakota.

BEGUN AND HELD AT PIERRE, THE CAPITAL OF SAID STATE, ON
TUESDAY, THE SIXTH DAY OF JANUARY, A. D. 1891,
AND CONCLUDED MARCH 6, 1891.

PIERRE:
FREE PRESS CO., LAW PUBLISHERS.
1891.

MAY 22 1970

THE ENABLING ACT.

[Approved February 22, 1889.]

AN ACT to Provide for the Division of Dakota into two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to such States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described may become the States of North Dakota, South Dakota, Montana and Washington respectively, as hereinafter provided.

§ 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory; and the delegates elected as hereinafter provided to the Constitutional Convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

§ 3. That all persons who are qualified by the laws of said territories to vote for representatives to the Legislative Assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories, respectively, persons are required to possess to be eligible to the Legislative Assemblies thereof, and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make

the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the Governor, the Chief Justice and the Secretary of said territories; and the Governors of said territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the 15th day of April, 1889; and such election shall be conducted, the returns made, the result ascertained and the certificates to the persons elected to such convention issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively, shall be seventy five; and all persons resident in said proposed states who are qualified voters of said territories as herein provided shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe not in conflict with this act, upon the ratification or rejection of the constitutions.

§ 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the 4th day of July, 1889, and, after organization, shall declare on behalf of the people of said proposed states that they adopt the Constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form Constitutions and State Governments for said proposed states, respectively. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That the perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the

same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children of said state, and free from sectarian control.

§ 5. That the convention which shall assemble at Bismarck shall form a Constitution and State Government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a Constitution and State Government for a state to be known as South Dakota; *Provided*, That at the election for delegates to the Constitutional Convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot, the words, "For the Sioux Falls Constitution," or the words, "Against the Sioux Falls Constitution," and the votes on this question should be returned and canvassed in the same manner as for the election provided for in Section 3 of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls Constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the Constitution framed at Sioux Falls, and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the pro-

posed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the Constitution shall be for the Constitution irrespective of the articles separately submitted, the State of South Dakota shall be admitted as a state in the Union under said Constitution as hereinafter provided, but the archives, records and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the Constitutional Convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then, and in that event, it shall be the duty of the convention which will assemble at the city of Sioux Falls on the Fourth day of July, 1889, to proceed to form a Constitution and State Government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

§ 6. It shall be the duty of the Constitutional Conventions of North Dakota and South Dakota to appoint a Joint Commission, to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amounts of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

§ 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present Territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be; *Provided*, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratifi-

cation or rejection at the election provided therefor, the Governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

§ 8. The Constitutional Convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls Constitution of 1885, after having amended the same as provided in Section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said Constitutional Convention is authorized and required to form a new constitution for South Dakota, it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the Constitutional Conventions which may assemble in North Dakota, Montana and Washington, shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states respectively, for ratification or rejection, at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the Secretary of each of said territories, who, with the Governor and Chief Justice thereof, or any two of them, shall canvass the same, and if a majority of the legal votes cast shall be for the constitution, the Governor shall certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of the said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed

state governments, as herein provided, shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

§ 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the House of Representatives of the United States, except South Dakota which shall be entitled to two; and the representatives of the Fifty-first Congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

§ 10. That upon the admission of each of said states into the Union sections numbered 16 and 36 in every township of said proposed states, and where such sections or any part thereof have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the Legislature may provide, with the approval of the Secretary of the Interior; *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

§ 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the Legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

§ 12. That upon the admission of each of said states into the Union, in accordance with the provision of this act fifty sec-

tions of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in Section 10 of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

§ 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

§ 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as, together with the land confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the state of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in Section 11 of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the Territory of Dakota, for an Asylum for the Insane shall, upon the admission of said State of South Dakota into the Union, become the property of said state.

§ 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose

mentioned in 'An act appropriating moneys for the erection of a penitentiary in the Territory of Dakota,' approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said State of South Dakota, for the purposes therein designated, and the States of North Dakota and Washington shall, respectively, have like grants for the same purposes, and subject to like terms and conditions as provided in said act of March 2, 1881, for the Territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the state of Montana.

§ 16. That 90,000 acres of land to be selected and located as provided in Section 10 of this act, are hereby granted to each of said states except to the state of South Dakota, to which 120,000 acres are granted for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purposes.

§ 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and Section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the School of Mines, 40,000 acres; for the Reform School, 40,000 acres; for the Deaf and Dumb Asylum, 40,000 acres; for the Agricultural College, 40,000 acres; for the University, 40,000 acres; for the State Normal Schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres, and for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all, 500,000 acres.

To the State of North Dakota a like quantity of land as is in this section granted to the state of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a School of Mines, 100,000 acres; for the State Normal Schools, 100,000 acres; for Agricultural Colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of the State Reform School, 50,000 acres; for the establishment of a Deaf and Dumb Asylum, 50,000 acres; for public buildings at the capital of the state, in addition to

the grant hereinbefore made for that purpose, 150,000 acres.

To the State of Washington: For the establishment and maintenance of a Scientific School, 100,000 acres; for the State Normal School, 100,000 acres; for public buildings at the state capital in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state, charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided for in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

§ 18. That all mineral lands shall be exempted from the grants of this act. But if sections 16 and 36, of any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said state.

§ 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by Congress to said territories for similar objects.

§ 20. That the sum of \$20,000 or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota for which the sum of \$40,000 is so appropriated. \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

§ 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided be attached to

the Eighth judicial circuit, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney and one United States marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said court shall be held in each district at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Nebraska.

§ 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require; *Provided*, That the mandate of execution or of further proceedings shall, in cases arising in the Territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the State of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the State of North Dakota, or to the supreme court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts,

herein named, shall, respectively be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States, as they shall have had by law prior to the admission of said state into the Union.

§ 23. That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the territories mentioned in this act at the time of the admission into the union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and territorial courts; and all the files, records, indictments and proceedings relating to any such cases shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state into the union, but the same shall be transferred and proceeded within the proper United States circuit, district or state court, as the case may be; *Provided*, however, that in all civil actions, causes and proceedings, in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon the written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with within the proper state courts.

§ 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives

in the fifty-first congress; but said state governments shall remain in abeyance until the states shall be admitted into the union respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize and elect two senators of the United States; and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in Congress; and when such state is admitted into the union, the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of state officers; and all laws in force made by said territories, at the time of their admission into the union, shall be in force in said states, except as modified or changed by this act, or by the constitutions of the states respectively.

§ 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories, or by congress, are hereby repealed.

CONSTITUTION

OF THE

STATE OF SOUTH DAKOTA.

[Adopted by popular vote October 1, 1889. Yeas, 70,131; nays, 3,267.]

PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquility, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this constitution for the State of South Dakota.

ARTICLE I.

NAME AND BOUNDARY.

- § 1. The name of the State shall be South Dakota.
- § 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west

from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

ARTICLE II.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the state are divided into three distinct departments—the legislative, executive and judicial; and the powers and duties of each are prescribed by this constitution.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power shall be vested in a legislature, which shall consist of a senate and house of representatives.

§ 2. The number of members of the house of representatives shall not be less than seventy-five, nor more than one hundred and thirty-five. The number of members of the senate shall not be less than twenty-five nor more than forty-five.

The sessions of the legislature shall be biennial except as otherwise provided in this constitution.

§ 3. No person shall be eligible to the office of senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the State or Territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the State or Territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff or collector of public moneys, member of either house of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall be a member of the legislature;

Provided, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the legislature or become a member thereof.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury or other infamous crime, nor any person who has been, or may be collector or holder of public moneys who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session after each enumeration, and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy; *Provided*, that the legislature may make an apportionment at its first session after the admission of South Dakota as a State.

§ 6. The terms of the office of the members of the legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route.

Each regular session of the legislature shall not exceed sixty days, except in cases of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage.

§ 7. The legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock M., in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

§ 8. Members of the legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or

made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court, or the presiding officer of either house, in the hall of the house to which the member or officer is elected, and the secretary of state shall record and file the oath subscribed by each member and officer.

Any member or officer of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of senator or member of the house of representatives or any office within the gift of the legislature.

§ 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this constitution.

§ 10. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

§ 11. Senators and representatives shall, in all cases except treason, felony or breach of peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the governor, the governor and senate, or from the legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the

State or any county thereof, authorized by any law passed during the term for which he shall have been elected.

§ 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

§ 14. In all elections to be made by the legislature the members thereof shall vote *viva voce* and their votes shall be entered in the journal.

§ 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

§ 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

§ 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

§ 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered upon the journal.

§ 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

§ 21. No law shall embrace more than one subject, which shall be expressed in its title.

§ 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two-thirds of all the members elected of each house, otherwise direct.

§ 23. The legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.

3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages, or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties or forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable, no special law shall be enacted.

§ 24. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

§ 25. The legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense or for any purpose whatever.

§ 26. The legislature shall not delegate to any special commission, private corporation, or association, any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes, or to select a capital site, or to perform any municipal functions whatever.

§ 27. The legislature shall direct by law in what manner and in what courts suits may be brought against the State.

§ 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, thing of value to any executive or judicial officer or member of the legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense or corrupt solicitation of members of the legislature, or of public officers of the State, or any municipal division thereof, and any effort toward solicitation of said members of the legislature or officers to influence, their official action

shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterwards be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid shall be disqualified from holding any office or position or office of trust or profit in this state.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

§ 1. The executive power shall be vested in a governor who shall hold his office two years. A lieutenant governor shall be elected at the same time and for the same term.

§ 2. No person shall be eligible to the office of governor or lieutenant governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 3. The governor and lieutenant governor shall be elected by the qualified electors of the State at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 4. The governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil

and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

§ 5. The governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; *Provided*, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a board of pardons, consisting of the presiding judge, secretary of state and attorney general, after a full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of state, but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves, may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the legislature at each regular session each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

§ 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of governor the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 8. When any office shall, from any cause, become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment.

§ 9. Every bill which shall have passed the legislature, shall, before it becomes a law, be presented to the governor.

If he approve, he shall sign it; but if not, he shall return it with his objection to the house in which it originated, which shall enter the objection at large upon the journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall [not] be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall by its adjournment prevent its return, in which case it shall be filed, with his objection, in the office of the secretary of state within ten days after such adjournment, or become a law.

§ 10. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the legislature be in session he shall transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 11. Any governor of this state who asks, receives, or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislature or who threatens any member that he, the said governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be, provided by law, and

upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 12. There shall be chosen by the qualified electors of the state, at the time and places of choosing members of the legislature, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and an attorney general, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

§ 13. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands and attorney general shall be as prescribed by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

§ 1. The judicial powers of the State, except as in this constitution otherwise provided, shall be vested in a supreme court, circuit courts, county courts, and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

§ 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 3. The supreme court and the judges thereof shall have power to issue writs of *habeas corpus*. The supreme court shall also have power to issue writs of *mandamus*, *quo warranto*, *certiorari*, injunction, and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; *Provided, however*, that no jury trials shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a circuit court for trial before a jury.

§ 4. At least two terms of the supreme court shall be held each year at the seat of government.

§ 5. The supreme court shall consist of three judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

§ 6. The number of said judges and districts may after five years from the admission of this State under this constitution be increased by law to not exceeding five.

§ 7. A majority of the judges of the supreme court shall

be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court from day to day, or to a day certain.

§ 8. The term of the judges of the supreme court who shall be elected at the first election under this constitution shall be four years. At all subsequent elections the term of said judges shall be six years.

§ 9. The judges of the supreme court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

§ 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

§ 11. Until otherwise provided by law, the districts from which the said judges of the supreme court shall be elected shall be constituted as follows:

First District—All that portion of the State lying west of the Missouri river.

Second District—All that portion of the State lying east of the Missouri river and south of the second standard parallel.

Third District—All that portion of the State lying east of the Missouri river and north of the second standard parallel.

§ 12. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the supreme court not inconsistent with law. The legislature shall make provisions for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

§ 13. The governor shall have authority to require the opinions of the judges of the supreme court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

CIRCUIT COURTS.

§ 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such ap-

pellate jurisdiction as may be conferred by law and consistent with this constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and other original and remedial writs, with authority to hear and determine the same.

§ 15. The State shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

§ 16. Until otherwise ordered by law, said circuits shall be eight in number and constituted as follows, viz:

First Circuit—The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit—The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit—The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day, and the Wahpeton and Sisseton reservation, except such portion of said reservation as lies in Marshall county

Fourth Circuit—The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho, and Pratt.

Fifth Circuit—The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit—The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson, and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit—The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh and Lugenebeel.

Eighth Circuit—The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and north of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit.

§ 17. The legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines; but such increase of number or change in the boundaries of dis-

tricts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

§ 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the supreme court under such regulations as may be prescribed by law.

COUNTY COURTS.

§ 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

§ 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; *Provided*, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars except in matters of probate, guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the supreme court, in such cases and in such manner as may be prescribed by law; *Provided*, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities or towns.

§ 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

JUSTICE OF THE PEACE.

§ 22. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATE.

§ 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be con-

stituted *ex-officio* justices of the peace for their respective counties.

STATE'S ATTORNEY.

§ 24. The legislature shall have power to provide for state's attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of attorney general or state's attorney who shall not at the time of his election be at least twenty-five years of age, and possess all the other qualifications for judges of circuit courts as prescribed in this article.

MISCELLANEOUS.

§ 25. No person shall be eligible to the office of judge of the circuit or county courts, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this State or territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

§ 26. The judges of the supreme court, circuit courts and county courts shall be chosen at the first election held under the provisions of this constitution, and thereafter as provided by law, and the legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

§ 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

§ 28. Special terms of said courts may be held under such regulations as may be provided by law.

§ 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

§ 30. The judges of the supreme court, circuit courts and county courts shall each receive such salary as may be provided by law, consistent with this constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; *Provided*, that county judges may accept

and receive such fees as may be allowed under the land laws of the United States.

§ 31. No judge of the supreme court or circuit court shall act as attorney or counselor at law, nor shall any county judge act as an attorney or counselor at law in any case which is or may be brought into his court, or which may be appealed therefrom.

§ 32. There shall be a clerk of the circuit court in each organized county who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

§ 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the supreme, circuit and county courts respectively shall fix the terms thereof.

§ 34. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; *Provided, however*, that the legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

§ 35. No judge of the supreme or circuit courts shall be elected to any other than a judicial office or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the supreme court, circuit court or county court, given by the legislature or the people, shall be void.

§ 36. All judges or other officers of the supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

§ 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the supreme, circuit and county courts by the governor. All other judicial and other officers by the county board of the counties where the vacancy occurs; in cases of police magistrates, by the municipality.

§ 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

ARTICLE VI.

BILL OF RIGHTS.

§ 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

§ 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions, but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State.

No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

§ 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

§ 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

§ 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths of the jury in any court.

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 8. All persons shall be bailable by sufficient sureties, ex-

cept for capital offenses when proof is evident or presumption great. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

§ 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

§ 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. *Provided*, that the grand jury may be modified or abolished by law.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

§ 12. No *ex post facto* law, or law impairing the obligation of contracts or making any irrevocable grant of privilege, franchise or immunity shall be passed.

§ 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

§ 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

§ 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

§ 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

§ 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

§ 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state under regulations to be prescribed by the legislature.

§ 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice administered without denial or delay.

§ 21. No power of suspending laws shall be exercised, unless by the legislature or its authority.

§ 22. No person shall be attainted of treason or felony by the legislature.

§ 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

§ 24. The right of the citizens to bear arms in defense of themselves and the state shall not be denied.

§ 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 26. All political power is inherent in the people, and all free government is founded on their authority and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of South Dakota is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

§ 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE VII.

ELECTIONS AND RIGHT OF SUFFRAGE.

§ 1. Every male person resident of this state who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this constitution by the people, or who shall have resided in the United States one year, in this state six months, in the county thirty days, and in the election precinct where he offers his vote ten days next preceding

any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

§ 2. The legislature shall at its first session after the admission of the state into the Union, submit to a vote of the electors of the state the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the constitution relating to elections and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

§ 3. All votes shall be by ballot, but the legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

§ 4. All general elections shall be biennial.

§ 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections except in time of war or public danger.

§ 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

§ 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

§ 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

§ 9. Any woman having the qualifications enumerated in Section 1, of this article, as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes, and may hold any office in this state except as otherwise provided in this constitution.

ARTICLE VIII.

EDUCATION AND SCHOOL LANDS.

§ 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall

be the duty of the legislature to establish and maintain a general and uniform system of public schools, wherein tuition shall be without charge, and equally open to all, and to adopt all suitable means to secure to the people the advantages and opportunities of education.

§ 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the state; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the state. It shall be deemed a trust fund held by the state. The principal shall forever remain inviolate; any may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur.

§ 3. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state, and shall be for this purpose apportioned among and between all the several public school corporations of the state in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state.

§ 4. After one year from the assembling of the first legislature, the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the state, and the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the state auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands, and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural,

and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

§ 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash, and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years, and one-fourth in fifteen years; with interest thereon at the rate of not less than six per centum per annum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty day's advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be reappraised by the board of appraisal as hereinbefore provided before they are sold.

§ 6. All sales shall be conducted through the office of the commissioner of school and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

§ 7. All lands, money or other property donated, granted, or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

§ 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same officers and boards under the same limitations and subject to all the conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but

a distinct and separate account shall be kept by the proper officers of each of such funds.

§ 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes, and at public auction after notice as hereinbefore provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

§ 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvement made by such trespasser.

§ 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state as hereinafter provided, or in bonds of school corporations within the state, or in bonds of the United States or of the State of South Dakota. The legislature shall provide by law the method of determining the amounts of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date to [of] receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed five hundred dollars to any one person, nor shall it exceed one-half the valuation of the land as assessed for taxation, and the rate of interest shall not be less than six per centum per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first day of January and July; *Provided*, that wherever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be intrusted

to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasury of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than six per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

§ 12. The governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

§ 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII., Sec. 2.

§ 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

§ 15. The legislature shall make such provisions by general taxation, and by authorizing the school corporations to levy such additional taxes, as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

§ 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian

instruction shall be allowed in any school or institution aided or supported by the state.

§ 17. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

§ 1. The legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

§ 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

§ 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

§ 4. The legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will

permit, the civil townships shall be co-extensive with the congressional townships.

§ 5. In each organized county at the first general election held after the admission of the State of South Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner, and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk of the court, no person shall be eligible for more than four years in succession to any of the above named offices.

§ 6. The legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

§ 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person, as provided in section 9, Article VII.

ARTICLE X.

MUNICIPAL CORPORATIONS.

§ 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

§ 2. Except as otherwise provided in this constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment for one purpose ever be diverted to any other.

§ 3. No street passenger railway or telegraph or telephone lines shall be constructed within the limits of any village, town or city without the consent of its local authorities.

ARTICLE XI.

REVENUE AND FINANCE.

§ 1. The legislature shall provide for an annual tax sufficient to defray the estimated ordinary expenses of the state, for

each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state as ascertained by the last assessment made for the state and county purposes.

§ 2. All taxes to be raised in this state shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

§ 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

§ 4. The legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. The property of the United States and of the state, county, and municipal corporations, both real and personal, shall be exempt from taxation.

§ 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars, for each individual liable to taxation.

§ 7. All laws exempting property from taxation, other than that enumerated in Sections 5 and 6 of this article, shall be void.

§ 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

§ 9. All taxes levied and collected for state purposes shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the state, and no warrant shall be drawn upon the state treasurer except in pursuance of an appropriation for the specific purpose first made. The legislature shall provide by suitable enactment for carrying this section into effect.

§ 10. The legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

§ 11. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

§ 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the legislature may provide.

ARTICLE XII.

PUBLIC ACCOUNTS AND EXPENDITURES.

§ 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

§ 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the legislature.

§ 3. The legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part

thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; *Provided, however,* that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

ARTICLE XIII.

PUBLIC INDEBTEDNESS.

§ 1. Neither the State nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; *Provided,* that the State may assume or pay such debt or liability when incurred in time of war for the defense of the State. Nor shall the state engage in any work of internal improvement.

§ 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed, with previous debts, in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State or the United States in war, and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose, or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; *Provided, however,* the State of South Dakota shall have the power to refund the territorial debt assumed by the State of South Dakota, by bonds of the State of South Dakota.

§ 3. That the indebtedness of the State of South Dakota, limited by Sec. 2 of this article shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota.

§ 4. The debt of any county, city, town, school district or

other subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein.

In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this constitution shall be included.

§ 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

§ 6. In order that the payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved Feb. 22, 1889, entitled, "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the states of North Dakota and South Dakota respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota" wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within

the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the Territory of Dakota, approved March 3, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is two hundred and sixty-six thousand dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is ninety-six thousand seven hundred dollars; also, bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is ninety-three thousand six hundred dollars; also, refunding capitol building warrants dated April 1, 1889, eighty-three thousand five hundred and seven dollars and forty-six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, towit: Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is two hundred and ten thousand dollars; also, bonds issued on account of the school for deaf mutes at Sioux Falls, South Dakota, the face aggregate of which is fifty-one thousand dollars; also, bonds issued on account of the university at Vermillion, South Dakota, the face aggregate of which is seventy-five thousand dollars; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is ninety-four thousand three hundred dollars; also, bonds issued on account of agricultural college at Brookings, South Dakota, the face aggregate of which is ninety-seven thousand five hundred dollars; also, bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is forty-nine thousand four hundred dollars; also, bonds issued on account of [the] school of mines at Rapid City, South Dakota, the face aggregate of which is thirty-three thousand dollars; also, bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is thirty thousand dollars; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is twenty-five thousand dollars; also, bonds issued on account of the soldier's

home at Hot Springs, South Dakota, the face aggregate of which is forty-five thousand dollars.

6. The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota forty-six thousand five hundred dollars on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the eighth day of March, 1889, based upon earnings of years prior to 1888, under and by

virtue of the act of the legislative assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sum going to the territory) shall be equally divided between the states of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows. North Dakota shall have so [much] thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each state shall be credited also with all balances of appropriations made by the seventeenth legislative assembly of the Territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

§ 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

§ 8. The territorial treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500, bearing interest not to exceed the rate of four per cent per annum, for the purpose of refunding the following described indebtedness of the territory of Dakota, to-wit:

Seventy-seven thousand five hundred dollars 5 per cent bonds, dated May 1, 1883, issued for the construction of the west wing of the insane hospital at Yankton, and \$30,000 6 per cent bonds, dated May 1, 1883, issued for permanent improvements [of the]

Dakota penitentiary at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the governor and treasurer of the territory, and shall be attested by the secretary under the great seal of the territory.

In case such bonds are issued by the territorial treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a state it shall assume and pay said bonds in lieu of the aforesaid territorial indebtedness.

ARTICLE XIV.

STATE INSTITUTIONS.

§ 1. The charitable and penal institutions of the state of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

§ 2. The state institutions provided for in the preceding section shall be under the control of a state board of charities and corrections, under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

§ 3. The state university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of nine members, appointed by the governor and confirmed by the senate, to be designated the regents of education. They shall hold their office for six years, three retiring every second year.

The regents in connection with the faculty of each institution shall fix the course of study in the same.

The compensation of the regents shall be fixed by the legislature.

§ 4. The regents shall appoint a board of five members for each institution under their control, to be designated the board of trustees. They shall hold office for five years, one member retiring annually. The trustees of each institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer.

Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

§ 5. The legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

ARTICLE XV.

MILITIA.

§ 1. The militia of the State of South Dakota shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

§ 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia, and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

§ 3. The legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

§ 4. All militia officers shall be commissioned by the governor and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

§ 5. The militia shall in [all] cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

§ 6. All military records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring memorial of the patriotism and valor of South Dakota; and it shall be the duty of the legislature to provide by law for the safe keeping of the same.

§ 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

ARTICLE XVI.

IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 1. The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 2. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

§ 3. The governor and other state and judicial officers except county judges, justices of the peace and police magistrates shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office or for drunkenness or gross incompetency, in such manner as may be provided by law.

§ 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

§ 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

§ 8. No person shall be liable to impeachment twice for the same offense.

ARTICLE XVII.

CORPORATIONS.

§ 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide by general laws for the organization of all corporations hereafter to be created.

§ 2. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 3. The legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of

such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

§ 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals, and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the state.

§ 5. In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer.

§ 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

§ 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

§ 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

§ 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

§ 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by said such street railroad.

§ 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state, and to connect

the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise any other competing line of telegraph.

§ 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this State for the transaction of its business, where transfers of its stocks shall be made and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

§ 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

§ 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stockholders in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 15. Railways heretofore constructed or that may hereafter be constructed, in this state, are hereby declared public highways, and all railroads and transportation companies are declared to be common carriers and subject to legislative control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carrier from one point to another in this state.

§ 16. Any association or corporation organized for the purpose shall have the right to construct and operate a rail-

road between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 17. The legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

§ 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise, and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

§ 19. The term "corporations" as used in this article shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

ARTICLE XVIII.

BANKING AND CURRENCY.

§ 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this State of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in the approved securities of the state or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

§ 2. Every bank, banking company or corporation shall be required to cease all banking operation within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued

until its business is fully closed, but the legislature may provide by general law for the reorganization of such banks.

§ 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stock; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

ARTICLE XIX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 1. Until otherwise provided by law, the members of the house of representatives of the United States, apportioned to this state, shall be elected by the state at large.

§ 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned, as follows:

SENATORIAL DISTRICTS.

District No. 1 shall consist of the county of Union and be entitled to one senator.

District No. 2 shall consist of the county of Clay, and be entitled to one senator.

District No. 3 shall consist of the county of Yankton, and be entitled to one senator.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one senator.

District No. 5 shall consist of the county of Lincoln, and be entitled to one senator.

District No. 6 shall consist of the county of Turner, and be entitled to one senator.

District No. 7 shall consist of the county of Hutchinson, and be entitled to one senator.

District No. 8 shall consist of the counties of Charles Mix and Douglas, and be entitled to one senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two senators.

District No. 10 shall consist of the county of McCook, and be entitled to one senator.

District No. 11 shall consist of the county of Hanson, and be entitled to one senator.

District No. 12 shall consist of the county of Davison, and be entitled to one senator.

District No. 13 shall consist of the county of Aurora, and be entitled to one senator.

District No. 14 shall consist of the county of Brule, and be entitled to one senator.

District No. 15 shall consist of the county of Moody, and be entitled to one senator.

District No. 16 shall consist of the county of Lake, and be entitled to one senator.

District No. 17 shall consist of the county of Miner, and be entitled to one senator.

District No. 18 shall consist of the county of Sanborn, and be entitled to one senator.

District No. 19 shall consist of the counties of Jerauld and Buffalo, and be entitled to one senator.

District No. 20 shall consist of the county of Brookings, and be entitled to one senator.

District No. 21 shall consist of the county of Kingsbury, and be entitled to one senator.

District No. 22 shall consist of the county of Beadle, and be entitled to one senator.

District No. 23 shall consist of the county of Hand and be entitled to one senator.

District No. 24 shall consist of the counties of Hyde and Hughes and be entitled to one senator.

District No. 25 shall consist of the counties of Sully and Potter, and be entitled to one senator.

District No. 26 shall consist of the county of Deuel, and be entitled to one senator.

District No. 27 shall consist of the county of Hamlin, and be entitled to one senator.

District No. 28 shall consist of the county of Codington, and be entitled to one senator.

District No. 29 shall consist of the county of Clark, and be entitled to one senator.

District No. 30 shall consist of the county of Spink, and be entitled to two senators.

District No. 31 shall consist of the counties of Grant and Roberts, and be entitled to one senator.

District No. 32 shall consist of the county of Day, and be entitled to one senator.

District No. 33 shall consist of the county of Brown, and be entitled to two senators.

District No. 34 shall consist of the county of Marshall, and be entitled to one senator.

District No. 35 shall consist of the county of Faulk, and be entitled to one senator.

District No. 36 shall consist of the counties of Edmunds and McPherson, and be entitled to one senator.

District No. 37 shall consist of the counties of Walworth and Campbell, and be entitled to one senator.

District No. 38 shall consist of the county of Lawrence, and be entitled to two senators.

District No. 39 shall consist of the county of Pennington, and be entitled to one senator.

District No. 40 shall consist of the counties of Meade and Butte, and be entitled to one senator.

District No. 41 shall consist of the county of Custer, and be entitled to one senator.

REPRESENTATIVE DISTRICTS.

District No. 1 shall consist of the county of Union, and be entitled to three representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to four representatives.

District No. 4 shall consist of the county of Bon Homme, and be entitled to three representatives.

District No. 5 shall consist of the county of Lincoln, and be entitled to three representatives.

District No. 6 shall consist of the county of Turner, and be entitled to three representatives.

District No. 7 shall consist of the county of Hutchinson, and be entitled to two representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to two representatives.

District No. 9 shall consist of the county of Charles Mix, and be entitled to two representatives.

District No. 10 shall consist of the county of Minnehaha, and be entitled to seven representatives.

District No. 11 shall consist of the county of McCook, and be entitled to two representatives.

District No. 12 shall consist of the county of Hanson, and be entitled to two representatives.

District No. 13 shall consist of the county of Davison, and be entitled to two representatives.

District No. 14 shall consist of the county of Aurora, and be entitled to two representatives.

District No. 15 shall consist of the county of Brule, and be entitled to three representatives.

District No. 16 shall consist of the county of Moody, and be entitled to two representatives.

District No. 17 shall consist of the county of Lake, and be entitled to three representatives.

District No. 18 shall consist of the county of Miner, and be entitled to two representatives.

District No. 19 shall consist of the county of Sanborn, and be entitled to two representatives.

District No. 20 shall consist of the county of Jerauld, and be entitled to one representative.

District No. 21 shall consist of the county of Buffalo, and be entitled to one representative.

District No. 22 shall consist of the county of Brookings, and be entitled to three representatives.

District No. 23 shall consist of the county of Kingsbury, and be entitled to three representatives.

District No. 24 shall consist of the county of Beadle, and be entitled to five representatives.

District No. 25 shall consist of the county of Hand, and be entitled to three representatives.

District No. 26 shall consist of the county of Hyde, and be entitled to one representative.

District No. 27 shall consist of the county of Hughes, and be entitled to one representative.

District No. 28 shall consist of the county of Sully, and be entitled to one representative.

District No. 29 shall consist of the county of Deuel, and be entitled to two representatives.

District No. 30 shall consist of the county of Hamlin, and be entitled to two representatives.

District No. 31 shall consist of the county of Codington, and be entitled to three representatives.

District No. 32 shall consist of the county of Clark, and be entitled to three representatives.

District No. 33 shall consist of the county of Spink, and be entitled to five representatives.

District No. 34 shall consist of the county of Faulk, and be entitled to two representatives.

District No. 35 shall consist of the county of Potter, and be entitled to one representative.

District No. 36 shall consist of the county of Grant, and be entitled to two representatives.

District No. 37 shall consist of the county of Roberts, and be entitled to one representative.

District No. 38 shall consist of the county of Day, and be entitled to three representatives.

District No. 39 shall consist of the county of Marshall and be entitled to two representatives.

District No. 40 shall consist of the county of Brown, and be entitled to eight representatives.

District No. 41 shall consist of the county of Edmunds, and be entitled to two representatives.

District No. 42 shall consist of the county of Walworth, and be entitled to one representative.

District No. 43 shall consist of the county of McPherson, and be entitled to two representatives.

District No. 44 shall consist of the county of Campbell, and be entitled to one representative.

District No. 45 shall consist of the county of Fall River, and be entitled to one representative.

District No. 46 shall consist of the county of Custer, and be entitled to two representatives.

District No. 47 shall consist of the county of Pennington, and be entitled to two representatives.

District No. 48 shall consist of the county of Meade, and be entitled to two representatives.

District No. 49 shall consist of the county of Lawrence, and be entitled to six representatives.

District No. 50 shall consist of the county of Butte, and be entitled to one representative

ARTICLE XX.

SEAT OF GOVERNMENT.

§ 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner and at the same election at which this constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

§ 2. The legislature, at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

§ 3. Should no place voted for at said election have a majority of all votes cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving a majority of all the votes cast upon this question shall be the permanent seat of government.

ARTICLE XXI.

MISCELLANEOUS.

§ 1. SEAL AND COAT OF ARMS.] The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend "Under God the People Rule," which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words "State of South Dakota." In the lower part the words "Great Seal," and the date in Arabic numerals of the year in which the state shall be admitted to the Union.

COMPENSATION OF PUBLIC OFFICERS.

§ 2. The governor shall receive an annual salary of two thousand five hundred dollars; the judges of the supreme court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit courts shall each receive an annual salary of two thousand dollars; *Provided*, that the legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the governor and each of the judges of the supreme court to three thousand dollars, and the annual salary of each of the circuit court judges to two thousand five hundred dollars.

The secretary of state, state treasurer and state auditor shall each receive an annual salary of one thousand eight hundred dollars; the commissioner of school and public lands shall receive an annual salary of one thousand eight hundred dollars; the superintendent of public instruction shall receive an annual salary of one thousand eight hundred dollars; the attorney general shall receive an annual salary of one thousand dollars; the compensation of the lieutenant governor shall be double the compensation of a state senator.

They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

§ 3. OATH OF OFFICE. Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution

of the United States and of this state, and faithfully to discharge the duties of his office.

§ 4. EXEMPTIONS.—The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws; exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general law.

§ 5. RIGHTS OF MARRIED WOMEN.—The real and personal property of any women in this state acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

ARTICLE XXII.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their legislative assembly:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the State of South Dakota; do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person, a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law

of the United States shall remain exempt to the extent and as prescribed by such act of Congress.

Third—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided by this constitution.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools, which shall be opened to all the children of this state, and free from sectarian control.

ARTICLE XXIII.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

§ 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution; *Provided*, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide; and *Provided further*, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendment separately.

§ 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XXIV.

PROHIBITION.

[To be submitted to a separate vote as provided by the schedule and ordinance.]

No person or corporation shall manufacture, or aid in the

manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale, as a beverage any intoxicating liquor. The legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof. [Adopted October 1, 1889, by the following vote: For prohibition, 40, 234; against prohibition, 34,510.]

ARTICLE XXV.

MINORITY REPRESENTATION.

[To be submitted to a separate vote as provided by the schedule and ordinance.]

§ 1. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the first general election held after this constitution takes effect, and every two years thereafter.

§ 2. In all elections of representatives aforesaid each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit; and the candidates highest in votes shall be declared elected. [Rejected October 1, 1889, by the following vote: For minority representation, 24,161, against minority representation 46,200.]

ARTICLE XXVI.

SCHEDULE AND ORDINANCE.

§ 1. That no inconvenience may arise from the change of the territorial government to the permanent state government it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals, and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be before the organization of the judicial department under this constitution issued under the authority of the Territory of Dakota, within the boundary of this state, shall be as valid as if issued in the name of the State of South Dakota.

§ 2. That all fines, penalties, forfeitures and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said state.

§ 3. That all recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the judicial department under this constitu-

tion shall remain valid, and shall pass over to, and may be prosecuted in the name of the State of South Dakota; and all bonds, obligations or undertakings executed to this territory, within the boundaries of the State of South Dakota, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly.

All criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and executed in the name of the state.

§ 4. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution; *Provided*, that the provisions of the above sections shall be subject to the provisions of the act of congress providing for the admission of the State of South Dakota, approved by the president of the United States on February 22, 1889.

§ 5. This constitution shall be submitted for adoption or rejection to a vote of the electors qualified by the laws of this territory to vote at all elections, at the election to be held on Tuesday, Oct. 1, 1889.

At the said election the ballots shall be in the following form:

For the constitution: Yes. No.

For prohibition: Yes. No.

For minority representation: Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the constitution, or against any article submitted separately, must erase the word "Yes."

Any person may have printed or written on his ballot only the words "For the Constitution," or "Against the Constitution," and such ballots shall be counted for, or against the constitution accordingly. The same provision shall apply to articles submitted separately.

In addition to the foregoing election for the constitution and for the articles submitted by this convention for a separate vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following state

officers, to be voted for on the same ballot as above provided for votes on the constitution and separate articles, to-wit:

A governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of the supreme, circuit and county courts, representatives in congress, state senators, and representatives in the legislature.

All the elections above provided for shall be held in the same manner and form as provided for the election for the adoption or rejection of the constitution. And the names of all the officers above specified to be voted for at such election shall be written or printed upon the same ballots as the vote for or against the constitution.

The judges of election in counting the ballots voted at such election shall count all the affirmative ballots upon the constitution as votes for the constitution; and they shall count all the negative ballots voted at said election upon the constitution as votes against the constitution; and ballots voted at said election upon which neither of said words "Yes" or "No" following the words "For the Constitution" are erased, shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the article on prohibition, separately submitted, as votes for such article, and they shall count all negative ballots so voted upon such article as votes against such article; and ballots upon which neither the words "Yes" or "No" following the words "For Prohibition" are erased, shall not be counted upon such proposition; and they shall count all the affirmative ballots so voted upon the article on minority representation, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article as votes against such article; and ballots upon which neither of said words "Yes" or "No" following the words "For Minority Representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the constitution, are for the constitution, then this constitution shall be the constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Prohibition" are for prohibition, then said Article XXIV shall be and form a part of this constitution, and be in full force and effect as such from date of said election, but if a majority of said votes shall appear, according to said returns to be against prohibition, then Article XXIV shall be null and void and shall not be a part of this constitution. And if it appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election

for and against "Minority Representation" are for minority representation, then Article XXV shall be and form a part of said constitution, and be in full force and effect as such from the date of said election; but if a majority of said votes shall appear, according to said returns, to be against minority representation, then said Article XXV shall be null and void and shall not be a part of this constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

§ 6. At the same time and places of election there shall be held by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words "For Temporary Seat of Government," (Here insert the name of the city, town or place, to be voted for.)

And upon the canvas and return of the vote, made as hereinafter provided for, the name of the city, town or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the governor, chief justice and secretary of the Territory of Dakota, or by any two of them, at the same time that they shall canvass the vote for or against the constitution, together with the whole number of votes cast for each city, town or place, and the officers above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the legislature elected at said election to assemble at said city, town or place so selected, on the day fixed by this schedule and ordinance.

§ 7. The election provided for herein shall be under the provisions of the constitution herewith submitted, and shall be conducted in all respects as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities in the manner or form of election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it the being true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

§ 8. Immediately after the election herein provided for, the judges of election at each voting place shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same, with the names of all the candidates and the number of votes cast for each candidate, and the number of votes cast for and against

the constitution, and the number of votes cast for and against prohibition, and the number of votes cast for and against minority representation, and the number of votes cast for each city, town or place for the "temporary seat of government," to the county clerk, or auditor of the respective counties, together with one of the poll lists and election books used in said election.

§ 9. Within five days after said election the several boards of county canvassers provided by law for the canvassing of the results of the election, shall make and certify to the secretary of the territory of Dakota the true and correct return of the total number of votes cast for the constitution, and against the constitution, of the number of votes cast for and against "prohibition," and the number of votes cast for and against "minority representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the legislature, and shall transmit the same to the secretary of the territory of Dakota, by mail, and shall file with the county clerk or auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective offices of judge of the county court, and representatives in the legislature, and for state senator or senators.

§ 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the clerks and auditors of the respective counties to attend at the office of the county clerk of the senior county in the date of organization within twenty days after the date of election, and they shall compare the votes given in the several counties comprising such senatorial and representative district, and such clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for state senator or representative or both; which certificate shall be delivered to the person entitled thereto on his application to the clerk of the senior county of such district.

§ 11. The secretary of the territory shall receive all returns of election transmitted to him as above provided, and shall preserve the same, and after they have been canvassed as herein-after provided, and after the admission of the state of South Dakota into the Union, he shall deliver said returns to the proper state officer of said state of South Dakota.

Within fifteen days after said election the secretary of the territory, with the governor and chief justice thereof, or any two of them, shall canvass such returns and certify the

same to the president of the United States, as provided in the enabling act.

They shall also ascertain the total number of votes cast at such election for the constitution and against the constitution; the total number of votes cast for and against prohibition; and the total number of votes cast for and against minority representation; and the total number of votes cast for each city, town, or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting county judges and members of the legislature, and shall declare the result of said election in conformity with such vote, and the governor of the territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the state legislature, immediately upon its organization, a list of all the state and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the secretary of the territory the names of all persons declared by them to be elected members of the senate and house of representatives of the state of South Dakota; he shall make separate lists of the senators and representatives so elected, which lists shall constitute the rolls under which the senate and house of representatives shall be organized.

The governor of the territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes for governor, lieutenant governor, secretary of state, auditor, treasurer, attorney-general, superintendent of public instruction, commissioner of school and public lands, and judges of the supreme and circuit courts. Such certificates to be attested by the secretary of the territory.

§ 12. The apportionment made in this constitution shall govern the elections above provided for for members of the state legislature, until otherwise provided by law.

At the first election held under this ordinance for senators and representatives of the legislature, there shall be elected forty-five senators and one hundred and twenty-four representatives in the state legislature respectively.

§ 13. The legislature elected under the provisions of this ordinance and constitution shall assemble at the temporary seat of government on the third Tuesday in October, in the year A. D. 1889, at 12 o'clock noon, and on the first day of their assemblage the governor and other state officers shall take the oath of office in the presence of the legislature. The oath of office shall be administered to the members of the legislature and to the state officers by the chief justice of the territory, or by any other officer duly authorized by the laws of the territory of Dakota to administer oaths.

§ 14. Immediately after the organization of the legislature and taking the oath of office by the state officers, the legislature shall then and there proceed to the election of two senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of Congress for the election of United States Senators. And the governor and the secretary of the state of South Dakota shall certify the election of the said senators and two representatives in Congress, in the manner required by law.

§ 15. Immediately after the election of the United States senators as above provided for, said legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock M.; *Provided, however*, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said legislature shall convene within ten days after the date of the admission of the state into the Union.

§ 16. Nothing in this constitution or schedule contained shall be construed to authorize the legislature to exercise any powers except such as are necessary to its first organization, and to elect United States senators, and to adjourn as above provided. Nor to authorize an officer of the executive, administrative or judiciary departments to exercise any duties of his office until the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the Congress of the United States.

§ 17. The ordinances and schedule enacted by this convention shall be held to be valid for all the purposes thereof.

§ 18. That we, the people of the State of South Dakota, do ordain:

First—That perfect toleration of religions sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging

to or which may hereafter be purchased by the United States, or reserved, for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent and as prescribed by such act of Congress.

Third—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this constitution.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools which shall be opened to all the children of this state and free from sectarian control.

Fifth—That jurisdiction is ceded to the United States over the military reservations of Fort Mead, Fort Randall and Fort Sully, heretofore declared by the president of the United States; *Provided*, legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota expressed by their legislative assembly.

§ 19. The tenure of all officers, whose election is provided for in this schedule on the first day of October, A. D. 1889, shall be as follows:

The governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of county courts, shall hold their respective offices until the first Tuesday after the first Monday in January, A. D. 1891, at twelve o'clock, M., and until their successors are elected and qualified.

The judges of the supreme court and circuit courts shall hold their offices until the first Tuesday after the first Monday in January, A. D. 1894, at twelve o'clock M., and until their successors are elected and qualified; subject to the provisions of Sec. 26 of Article V of the constitution.

The terms of office of the members of the legislature elected at the first election held under the provisions of this constitution shall expire on the first Tuesday after the first

Monday in January, one thousand eight hundred and ninety-one (1891.)

§ 20. That the first general election under the provisions of this constitution shall be held on the first Tuesday after the first Monday in November, 1890, and every two years thereafter.

§ 21. The following form of ballot is adopted.

CONSTITUTIONAL TICKET.

INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the constitution, or any articles separately submitted may erase the word "Yes."

For the Constitution: Yes. No.

For Prohibition: Yes. No.

For Minority Representation: Yes. No.

For..... as the temporary seat of government.

For Governor.

For Lieutenant Governor.

For Secretary of State.

For Auditor.

For Treasurer.

For Attorney General.

For Superintendent of Public Instruction.

For Commissioner of School and Public Lands.

For Judges of the Supreme Court.

First District.....

Second District.....

Third District.....

For Judge of the Circuit Court.....Circuit.

For Representatives in Congress.

.....

For State Senator.

.....

For Representative in the Legislature.

.....

For County Judge.

.....

§ 22. This constitution shall be enrolled and after adoption and signing by the convention shall be delivered to Hon. A. J. Edgerton, the president of the constitutional convention, for safe keeping, and by him to be delivered to the secretary of state as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the state, and all future editions thereof.

The president of this convention shall also supervise the making of the copy that must be sent to the president of the United States; said copy is to be certified by the president and chief clerk of this convention.

§ 23. "The agreement made by the joint commission of the constitutional conventions of North and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed, which agreement is in the words following: That is to say:"

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, towit:

All records, books and archives in the offices of the governor and secretary of the territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the constitutional convention of 1889, for South Dakota, returns of elections held under the so-called local option law in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are part of the records and archives of said secretary's office; excepting also census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all of which are part of the records and archives of said governor's office.)

And the following records, books and archives shall also be the property of the State of North Dakota, towit:

Vouchers in the office or in the custody of the auditor of this territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of

North Dakota; one warrant register in the office of the treasurer of this territory, being a record of warrants issued under and by virtue of chapter twenty-four of the laws enacted by the eighteenth legislative assembly of Dakota territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and cancelled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroad situated wholly or mainly within the limits of North Dakota; records and papers of the office of the public examiner of the second district of the territory; records and papers of the office of the second district board of agriculture; records and papers in the office of the board of pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota, and the cost of such copies shall be borne equally by the said states of North Dakota and South Dakota. That is to say:

Appropriation ledger for the years ending November, 1889 and 1890—one volume.

The current warrant auditor's register—one volume.

Insurance record for 1889—one volume.

Treasurer's cash book "D."

Assessment ledger "B."

Dakota Territory bond register—one volume.

Treasurer's current ledger—one volume.

The originals of the foregoing volumes which are to be copied, shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the capital of North Dakota until demanded by the legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books

and archives which it is herein agreed may be made, shall be borne equally by said two states.

ALONZO J. EDGERTON,

President of the Constitutional Convention.

R. C. Anderson,
Ireneus Atkinson,
Lyman T. Boucher,
Andrew J. Berdahl,
S. F. Brott,
C. Beuchler,
E. W. Caldwell,
Edgar E. Clough,
C. G. Coats,
Wm. Cook,
George C. Cooper,
Dighton Corson,
Peter Couchman,
Harry Trumbull Craig,
George H. Culver,
J. G. Davies,
W. G. Dickinson,
T. F. Diefendorf,
J. Downing,
H. W. Eddy,
Edward G. Edgerton,
W. Elliott,
H. F. Fellows,
J. A. Fowles,
C. S. Gifford,
W. H. Goddard,
David Hall,
C. J. B. Harris,
Corbley G. Hartley,
M. R. Henninger,
L. H. Hole,
C. A. Houlton,
S. F. Huntley,
H. A. Humphrey,
S. D. Jeffries,
John L. Jolley,

A. G. Kellam,
Jonathan Kimball,
Timothy W. P. Lee,
R. F. Lyons,
W. H. Matson,
A. B. McFarland,
V. T. McGillicuddy,
W. H. Murphy,
Henry Niell,
Wm. S. O'Brien,
Sanford Parker,
S. S. Peck,
Charles H. Price,
Samuel A. Ramsey,
A. O. Ringsrud,
John Scollard,
C. G. Sherwood,
R. A. Smith,
I. R. Spooner,
Wm. Stoddard,
Thomas Sterling,
M. P. Stroupe,
F. W. Thompson,
Stephen B. Van Buskirk,
William Van Epps,
Clarence H. Van Tassel,
Chester R. Wescott,
S. A. Wheeler,
J. F. Whitlock,
J. V. Willis,
W. T. Williams,
H. M. Williamson,
Chauncey L. Wood,
Joshua F. Wood,
F. G. Young,
Josheph Zitka.

Attest:

F. A. BURDICK,

Chief Clerk.

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AUTHENTICATION.

STATE OF SOUTH DAKOTA, }
Office of Secretary of State. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed by the legislature at the second session thereof, begun and held at Pierre, January 6, A. D. 1891, now on file in this office, with the exception of clerical errors, appearing enclosed in brackets.

In witness whereof I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the capital, this 9th day of April, A. D., 1891.

[L. S.]

A. O. RINGSRUD,
Secretary of State.

THE LAWS.

ACCEPTANCE.

CHAPTER 1.

[S. B. 56]

ACCEPTING CERTAIN PROPERTY CONVEYED TO THE STATE.

JOINT RESOLUTION Accepting Certain Real Estate and Personal Property Conveyed to the State of South Dakota by the Chicago and Northwestern Railway Company and the Capitol Building Company of Pierre, South Dakota.

WHEREAS, The Chicago and Northwestern Railway Company through the Western Town Lot Company, has filed a deed with the Secretary of State conveying to the State of South Dakota a certain twenty (20) acre tract of ground, known as Block twenty-one (21) in the Fourth Railway addition to the city of Pierre, South Dakota, according to the recorded plat thereof, and

WHEREAS, The Capital Building Company of the said city of Pierre has filed a bill of sale conveying a certain building known as the Capitol building and now used by the legislature and state officials of the State of South Dakota, with the Secretary of State, conveying said building to the state of South Dakota. Be it

Resolved, By the Senate, the House of Representatives concurring, that said tract of land be accepted by the State of South Dakota, and that the thanks of the legislature be re-

turned to the donors of the above property, to-wit: The Chicago and Northwestern Railway Company and the City of Pierre, South Dakota.

ADULTERY.

CHAPTER 2.

[S. B. 55.]

DEFINING AND PROVIDING FOR THE PUNISHMENT OF ADULTERY.

AN ACT Defining Adultery, and Providing for the Punishment of Adultery.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ADULTERY DEFINED.] Adultery is the unlawful voluntary sexual intercourse of a married person with one of the opposite sex, and when the crime is committed between parties, only one of whom is married, both are guilty of adultery.

§ 2. PENALTY.] Every person guilty of the crime of adultery, shall be punished by imprisonment in the state prison, not exceeding five years, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 3. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] Whereas there is no law punishing adultery, an emergency exists, therefore this act shall be in force and effect from and after its passage and approval.

Approved February 4, 1891.

AGRICULTURAL COLLEGE.

CHAPTER 3.

[H. B. 312.]

ACCEPTING GRANTS OF MONEYS.

AN ACT Accepting Grants of Moneys for the Further Maintenance of the Agricultural College of South Dakota. Under an Act of Congress Approved August 30, 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACCEPTANCE—TREASURER TO RECEIVE FUNDS.] That the congressional grants of moneys for the further endowment and maintenance of Agricultural Colleges, known as the "Morrill Act," and approved August 30, 1890, be accepted for the Agricultural College of South Dakota, under the conditions and limitations of that act, and that the treasurer of the board having control of the Agricultural College is designated as the proper person to whom such funds are to be paid by the United States authorities; said treasurer giving good and sufficient bonds for the safe custody of said funds.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force on and after its passage and approval.

Approved March 7, 1891.

AMENDMENTS.

CHAPTER 4.

[S. B. 36.]

CHANGING THE WORD "TERRITORY" TO "STATE."

AN ACT Amending all Acts of the Legislative Assembly of the Territory of Dakota by Striking out the Words "Territory of Dakota" and inserting in Lieu Thereof the Words "State of South Dakota," by Striking out

the Word "Dakota" and Inserting in Lieu Thereof the Words "South Dakota," by Striking out the Words "Territorial" and "Territory" and Inserting in Lieu Thereof the Word "State," by Striking out the Words "Probate Court" and Inserting in Lieu Thereof the Words "County Court," by Striking out the Words "Probate Courts," and Inserting in Lieu Thereof the Words "County Courts," by striking out the Words "District Court," and Inserting in Lieu Thereof the Words "Circuit Court," by striking out the Words "District Courts" and Inserting in Lieu Thereof the Words "Circuit Courts," by striking out the Words "Organic Act," and Inserting in Lieu Thereof the Words "Constitution of the State of South Dakota," by Striking out the Words "Judge of the District Court" and Inserting in Lieu Thereof the Words "Judge of the Circuit Court," by Striking out the Words "Clerk of the District Court" and Inserting in Lieu Thereof the Words "Clerk of the Circuit Court," by striking out the Words "District Attorney" and Inserting in Lieu Thereof the Words "State's Attorney," by Striking out the Words "Judge of the Probate Court" and Inserting in Lieu Thereof the Words "Judge of the County Court," by Striking out the Words "Probate Judge" and Inserting in Lieu Thereof the words "County Judge."

Be It Enacted by the Legislature of the State of South Dakota:

§ 1. CHANGING THE WORDS "TERRITORY OF DAKOTA" TO "STATE OF SOUTH DAKOTA."] That wherever the words "Territory of Dakota" are used in any act of the Legislative Assembly of the Territory of Dakota the words "State of South Dakota" are substituted in lieu thereof.

§ 2. CHANGING THE WORD "DAKOTA" TO "SOUTH DAKOTA."] That wherever the word "Dakota" is used in any act of the Legislative Assembly of the Territory of Dakota the words "South Dakota" are substituted in lieu thereof.

§ 3. CHANGING THE WORD "TERRITORY" or "TERRITORIAL" TO "STATE."] That wherever the words "territory" or "territorial" are used in any act of the Legislative Assembly of the Territory of Dakota the word "state" is substituted in lieu thereof.

§ 4. CHANGING THE WORDS "PROBATE COURT" TO "COUNTY COURT."] That wherever the words "probate court" are used in any act of the Legislative Assembly of the Territory of Dakota the words "county court" are substituted in lieu thereof.

§ 5. CHANGING THE WORDS "PROBATE COURTS" TO "COUNTY COURTS."] That wherever the words "probate courts" are used in any act of the Legislative Assembly of the Territory of Dakota the words "county courts" are substituted in lieu thereof.

§ 6. CHANGING THE WORDS "DISTRICT COURT" TO "CIRCUIT COURT."] That wherever the words "district court" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "circuit court" are substituted in lieu thereof.

§ 7. CHANGING THE WORDS "DISTRICT COURTS" TO "CIR-

CUIT COURTS."] That wherever the words "district courts" are used in any act of the Legislative Assembly of the Territory of Dakota the words "circuit courts" are substituted in lieu thereof.

§ 8. CHANGING THE WORDS "ORGANIC ACT" TO "CONSTITUTION."] That wherever the words "organic act" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "Constitution of the State of South Dakota" are substituted in lieu thereof.

§ 9. CHANGING THE WORDS "JUDGE OF DISTRICT COURT" TO "JUDGE OF THE CIRCUIT COURT."] That wherever the words "judge of district court" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "judge of the circuit court" are substituted in lieu thereof.

§ 10. CHANGING THE WORDS "CLERK OF THE DISTRICT COURT" TO "CLERK OF THE CIRCUIT COURT."] That wherever the words "clerk of the district court" are used in any act of the Legislative Assembly of the Territory of Dakota the words "clerk of the circuit court" are substituted in lieu thereof.

§ 11. CHANGING THE WORDS "DISTRICT ATTORNEY" TO "STATE'S ATTORNEY."] That wherever the words "district attorney" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "state's attorney" are substituted in lieu thereof.

§ 12. CHANGING THE WORDS "JUDGE OF PROBATE COURT" TO "JUDGE OF COUNTY COURT."] That wherever the words "judge of probate court" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "judge of county court" are substituted in lieu thereof.

§ 13. CHANGING THE WORDS "PROBATE JUDGE" TO "COUNTY JUDGE."] That wherever the words "probate judge" are used in any act of the Legislative Assembly of the Territory of Dakota, the words "county judge" are substituted in lieu thereof.

§ 14. REPEAL.] That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 15. EMERGENCY.] Whereas there is no act providing for the amending of the laws as provided for in this act, an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved February 17, 1891.

APPORTIONMENT.

CHAPTER 5.

[S. B. 69.]

LEGISLATIVE APPORTIONMENT.

AN ACT Creating Senatorial and Representative Districts and Apportioning the Number of Senators and Representatives Therein.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. NUMBER OF MEMBERS.] The state shall be divided into senatorial and representative districts, which districts shall be entitled to the number or numbers of senators and representatives as hereinafter provided, and consisting of forty-three senators and eighty-three representatives.

§ 2. SENATORIAL DISTRICTS—NUMBER APPORTIONED TO EACH DISTRICT.] District No. 1 shall consist of the county of Union and be entitled to one senator.

District No. 2 shall consist of the county of Clay, and be entitled to one senator.

District No. 3 shall consist of the county of Yankton, and be entitled to one senator.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one senator.

District No. 5 shall consist of the county of Lincoln, and be entitled to one senator.

District No. 6 shall consist of the county of Turner, and be entitled to one senator.

District No. 7 shall consist of the county of Hutchinson, and be entitled to one senator.

District No. 8 shall consist of the counties of Charles Mix and Douglas, and be entitled to one senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two senators.

District No. 10 shall consist of the county of McCook, and be entitled to one senator.

District No. 11 shall consist of the county of Hanson, and be entitled to one senator.

District No. 12 shall consist of the county of Davison, and be entitled to one senator.

District No. 13 shall consist of the county of Aurora, and be entitled to one senator.

District No. 14 shall consist of the county of Brule, and be entitled to one senator.

District No. 15 shall consist of the county of Moody, and be entitled to one senator.

District No. 16 shall consist of the county of Lake, and be entitled to one senator.

District No. 17 shall consist of the county of Miner, and be entitled to one senator.

District No. 18 shall consist of the county of Sanborn, and be entitled to one senator.

District No. 19 shall consist of the counties of Jerauld and Buffalo, and be entitled to one senator.

District No. 20 shall consist of the county of Brookings, and be entitled to one senator.

District No. 21 shall consist of the county of Kingsbury, and be entitled to one senator.

District No. 22 shall consist of the county of Beadle, and be entitled to one senator.

District No. 23 shall consist of the county of Hand, and be entitled to one senator.

District No. 24 shall consist of the counties of Hughes and Stanley, and be entitled to one senator.

District No. 25 shall consist of the counties of Sully and Hyde, and be entitled to one senator.

District No. 26 shall consist of the county of Deuel, and be entitled to one senator.

District No. 27 shall consist of the county of Hamlin, and be entitled to one senator.

District No. 28 shall consist of the county of Codington, and be entitled to one senator.

District No. 29 shall consist of the county of Clark, and be entitled to one senator.

District No. 30 shall consist of the county of Spink, and be entitled to one senator.

District No. 31 shall consist of the county of Grant, and be entitled to one senator.

District No. 32 shall consist of the county of Day, and be entitled to one senator.

District No. 33 shall consist of the county of Brown, and be entitled to two senators.

District No. 34 shall consist of the counties of Marshall and Roberts, and be entitled to one senator.

District No. 35 shall consist of the counties of Faulk and Potter, and be entitled to one senator.

District No. 36 shall consist of the counties of Edmunds and Walworth, and be entitled to one senator.

District No. 37 shall consist of the counties of McPherson and Campbell, and be entitled to one senator.

District No. 38 shall consist of the county of Lawrence, and be entitled to one senator.

District No. 39 shall consist of the county of Pennington, and be entitled to one senator.

District No. 40 shall consist of the counties of Meade and Butte, and be entitled to one senator.

District No. 41 shall consist of the counties of Custer and Fall River, and be entitled to one senator.

REPRESENTATIVE DISTRICTS.

§ 3. REPRESENTATIVE DISTRICTS—NUMBER APPORTIONED TO EACH DISTRICT.] District No. 1 shall consist of the county of Union, and be entitled to two representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to three representatives.

District No. 4 shall consist of the county of Lincoln, and be entitled to two representatives.

District No. 5 shall consist of the county of Turner, and be entitled to three representatives.

District No. 6 shall consist of the county of Hutchinson, and be entitled to three representatives.

District No. 7 shall consist of the county of Bon Homme, and be entitled to two representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to one representative.

District No. 9 shall consist of the county of Charles Mix, and be entitled to one representative.

District No. 10 shall consist of the county of Minnehaha, and be entitled to five representatives.

District No. 11 shall consist of the county of McCook, and be entitled to two representatives.

District No. 12 shall consist of the county of Hanson, and be entitled to one representative.

District No. 13 shall consist of the county of Davison, and be entitled to one representative.

District No. 14 shall consist of the county of Sanborn, and be entitled to one representative.

District No. 15 shall consist of the county of Aurora, and be entitled to one representative.

District No. 16 shall consist of the counties of Jerauld and Buffalo, and be entitled to one representative.

District No. 17 shall consist of the county of Brule, and be entitled to two representatives.

District No. 18 shall consist of the county of Miner, and be entitled to one representative.

District No. 19 shall consist of the county of Lake, and be entitled to two representatives.

District No. 20 shall consist of the county of Moody, and be entitled to one representative.

District No. 21 shall consist of the county of Brookings, and be entitled to three representatives.

District No. 22 shall consist of the county of Kingsbury, and be entitled to two representatives.

District No. 23 shall consist of the county of Beadle, and be entitled to two representatives.

District No. 24 shall consist of the county of Hand, and be entitled to two representatives.

District No. 25 shall consist of the counties of Hyde and Sully, and be entitled to one representative.

District No. 26 shall consist of the counties of Hughes and Stanley, and be entitled to two representatives.

District No. 27 shall consist of the county of Clark, and be entitled to two representatives.

District No. 28 shall consist of the county of Codington, and be entitled to two representatives.

District No. 29 shall consist of the county of Hamlin, and be entitled to one representative.

District No. 30 shall consist of the county of Deuel, and be entitled to one representative.

District No. 31 shall consist of the county of Grant, and be entitled to two representatives.

District No. 32 shall consist of the county of Marshall and be entitled to one representative.

District No. 33 shall consist of the county of Roberts, and be entitled to one representative.

District No. 34 shall consist of the county of Day, and be entitled to two representatives.

District No. 35 shall consist of the county of Brown, and be entitled to four representatives.

District No. 36 shall consist of the county of Spink, and be entitled to three representatives.

District No. 37 shall consist of the county of Edmunds, and be entitled to one representative.

District No. 38 shall consist of the county of McPherson, and be entitled to one representative.

District No. 39 shall consist of the county of Walworth, and be entitled to one representative.

District No. 40 shall consist of the county of Campbell, and be entitled to one representative.

District No. 41 shall consist of the county of Potter, and be entitled to one representative.

District No. 42 shall consist of the county of Faulk, and be entitled to one representative.

District No. 43 shall consist of the county of Custer, and be entitled to one representative.

District No. 44 shall consist of the county of Fall River, and be entitled to one representative.

District No. 45 shall consist of the county of Pennington, and be entitled to two representatives.

District No. 46 shall consist of the county of Meade, and be entitled to one representative.

District No. 47 shall consist of the county of Butte, and be entitled to one representative.

District No. 48 shall consist of the county of Lawrence, and be entitled to three representatives.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

APPROPRIATIONS.

CHAPTER 6.

(S. B. 232.)

GENERAL APPROPRIATIONS.

AN ACT Providing for an Appropriation for Expenses of the Executive, Legislative and Judicial Departments of the State, Interest on the Public Debt, and for the Current Expenses of all the State Officers and Institutions of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. GENERAL.] That there is hereby appropriated the following sums of moneys, or so much thereof as may be necessary, out of any moneys in the state treasury not otherwise appropriated, for the purpose of paying the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, school institutes, and for the current expenses of all state officers and institutions of the State of

South Dakota as hereinafter mentioned for the ensuing two years, viz:

Office expenses, per annum and salaries of Governor, Secretary of State, Auditor, Treasurer, Commissioner of School and Public Lands, Attorney General, Supreme Court, Superintendent of Public Instruction, Engineer of Irrigation, Inspector of Mines, Commissioner of Labor and Statistics, Public Examiner, Legislature, interest on public debt, maintenance of state house, University of Dakota at Vermillion, Normal School at Madison, Normal School at Spearfish, Reform School at Plankinton, Agricultural College at Brookings, School of Mines at Rapid City, School for Deaf Mutes at Sioux Falls, Dakota Penitentiary at Sioux Falls, Hospital for Insane at Yankton, Soldiers Home at Hot Springs, State Militia, State Board of Charities and Corrections, Regents of Education, Boards of Trustees of Educational Institutions, Insurance on Public Buildings, and Commissioners of Soldiers Home.

§ 2. *Salaries of Executive and Judicial Officers.*]

	For 1891.	For 1892.
For salary of governor.....	\$ 2,500	\$ 2,500
For salary of secretary of state.....	1,800	1,800
For salary of state auditor.....	1,800	1,800
For salary of state treasurer.....	1,800	1,800
For salary of commissioner of school and public lands.....	1,800	1,800
For salary of superintendent of public instruction.....	1,800	1,800
For salary of attorney general.....	1,000	1,000
For salary of three judges of supreme court	7,500	7,500
For salary of eight judges of the circuit court.....	16,000	16,000
	<u>\$36,000</u>	<u>\$36,000</u>

§ 3. *Expenses of Executive and Judicial Officers.*]

FIRST—GOVERNOR'S OFFICE.

	For 1891	For 1892.
For private secretary and clerk.....	\$ 1,200	\$ 1,200
For stationery, office supplies and incidentals	500	500
	<u>\$ 1,700</u>	<u>\$ 1,700</u>

SECOND—OFFICE OF SECRETARY OF STATE.

	For 1891.	For 1892.
For clerk hire.....	\$ 2,100	\$ 2,100

APPROPRIATIONS.

For stationery, office supplies and incidentals	600	600
	<u>\$ 2,700</u>	<u>\$ 2,700</u>

THIRD—STATE AUDITOR'S OFFICE.

	For 1891.	For 1892.
For deputy and clerk hire.....	\$ 3,000	\$ 3,000
For stationery, insurance blanks and office supplies.....	400	400
For blank books.....	150	150
For printing laws, statements, notices to county officers, general notices and annual reports.....	500	500
For postage, express and incidentals.....	400	400
	<u>\$ 4,450</u>	<u>\$ 4,450</u>

FOURTH—STATE TREASURER'S OFFICE.

	For 1891.	For 1892.
For deputy.....	\$ 1,200	\$ 1,200
For stationery, blank books, postage, office supplies and incidentals.....	750	750
	<u>\$ 1,950</u>	<u>\$ 1,950</u>

FIFTH—ATTORNEY GENERAL'S OFFICE.

	For 1891.	For 1892.
For clerk hire, transportation, stationery, blank books, postage, office supplies and incidentals.....	\$ 815	\$ 700

SIXTH—OFFICE OF COMMISSIONER OF SCHOOL AND PUBLIC LANDS.

	For 1891.	For 1892.
For clerk hire.....	\$ 2,500	\$ 2,500
Printing school land laws.....	30	30
Stationery, postage and incidentals.....	150	150
Blank books.....	200	200
Traveling expenses of commissioner and auditor in selecting indemnity lands....	1,000	
Land office fees.....	1,000	
Printing blanks, leases, etc.....	150	150
Seal for office.....	20	
Surveyor for selecting lands in Black Hills..	200	
Plat books.....	100	100
	<u>\$ 5,350</u>	<u>\$ 3,130</u>

SEVENTH—OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

	For 1891.	For 1892.
For stationery, postage and incidentals, including printing all blanks for entire state and printing biennial report.....	\$ 2,000	\$ 2,000
For salary of deputy.....	900	900
	<u>\$ 2,900</u>	<u>\$ 2,900</u>

EIGHTH—SUPREME COURT OFFICE.

	For 1891.	For 1892.
For marshal and librarian.....	\$ 350	\$ 350
For stationery, office supplies and incidentals.....	400	600
For necessary law books, expressage, freight and shelves.....	600	600
For salary of reporter for court and expenses incidental to his office.....	650	650
	<u>\$ 2,000</u>	<u>\$ 2,200</u>

§ 4. *Maintenance of State House.*]

	For 1891.	For 1892.
For ice.....	\$ 20	\$ 20
For water.....	125	125
For repairs.....	175	175
For gas.....	375	375
For janitor, messenger, engineer and fireman.....	750	750
For fuel.....	1,000	1,000
For sidewalk, trees and fixing embankment.....	500	500
For plastering and ventilation.....		250
	<u>\$ 2,945</u>	<u>\$ 3,195</u>

§ 5 *Salaries of Members of the Senate and House of Representatives, Clerks and other Employes and Mileage.*]

For salary of president of senate.....	\$ 600 00
For mileage of president of senate.....	112 40
For salary of members of senate.....	13,500 00
For mileage of members of senate.....	2,675 60
For salary of members of house.....	37,610 00
For mileage of members of house.....	7,777 00
For salaries of employes of senate.....	3,950 00
For salaries of employes of house.....	7,100 00
For mileage of chief clerk of house.....	47 60
For mileage and per diem of secretary of senate.....	46 00
	<u>\$73,418 60</u>

Or so much thereof as may be necessary and the balance to be returned to the general fund.

§ 6. *Printing.*]

For printing House and Senate daily journal
and printing and binding Session Laws,
and for other printing provided for by
law..... \$10,000
Fifteen hundred dollars of this appropriation shall be used
for printing Session Laws.

§ 7. *University of Dakota.*]

	For 1891.	For 1892.
For salaries of president, professors and teachers.....	\$15,500	\$15,500
For fuel and light.....	2,500	2,500
For library and reading room.....	400	400
For janitor and engineer.....	1,000	1,000
For supplies for scientific department and laboratory.....	300	300
For contingent fund.....	250	250
For repairs and fire escapes.....	400	400
For printing and postage.....	200	200
	<u>\$20,550</u>	<u>\$20,550.</u>

§ 8. *Madison Normal School.*]

	For 1891.	For 1892.
For salaries of president and teachers.....	\$ 6,900	\$ 6,900
For janitor.....	600	600
For fuel and light.....	1,300	1,300
For library and chemicals.....	100	100
For incidentals and contingent fund.....	200	200
For storm windows, painting and repairs...	200	200
	<u>\$ 9,300</u>	<u>\$ 9,300</u>

§ 9. *Spearfish Normal School.*]

	For 1891.	For 1892.
For salary of principal and teachers.....	\$ 8,100	\$ 8,100
For janitor and engineer.....	800	800
For library.....	200	200
For fuel and lights.....	1,000	1,000
For laboratory and chemical apparatus.....	100	100
For printing catalogues.....	100	100
For repairs.....	200	200
For incidentals.....	200	200
	<u>\$10,700</u>	<u>\$10,700</u>

§ 10. *Dakota Reform School.*]

	For 1891.	For 1892.
For salaries of superintendents and employees.....	\$ 5,000	\$ 5,000
For fuel and lights.....	1,300	1,300
For clothing, provisions and medicine.....	7,000	7,000
For payment on land.....	625	625
For tools, farm machinery and school apparatus.....	100	100
For printing office supplies.....	150	150
For rewards, amusements and chapel service	200	200
For contingent fund.....	500	500
For artesian well.....	2,250	
	<hr/> \$17,125	<hr/> \$14,875

§ 11. *Dakota Agricultural College.*]

	For 1891.	For 1892.
For salary of instructors and employees.....	\$ 1,000	\$ 1,000
For fuel and lights.....	2,000	2,000
For students' labor.....	1,000	1,000
For incidentals.....	500	500
For repairs.....	500	500
To erect dairy, school building and to repair machine shop.....	2,000	
	<hr/> \$ 7,000	<hr/> \$ 5,000

§ 12. *School of Mines.*]

	For 1891.	For 1892.
For salary of dean and professors.....	\$ 5,300	\$ 5,300
For salary of janitor.....	480	480
For maintenance of laboratory.....	500	500
For engineer and fireman.....	600	600
For fuel and contingent fund.....	1,120	1,120
	<hr/> \$ 8,000	<hr/> \$ 8,000

§ 13. *School for Deaf Mutes.*]

	For 1891.	For 1892.
For employees.....	\$ 5,000	\$ 5,000
For physician and medicine.....	200	200
For repairs.....	150	150
For maintenance.....	5,000	5,000
For fuel and lights.....	2,000	2,000
	<hr/> \$12,350	<hr/> \$12,350

§ 14. *Dakota Penitentiary.*]

	For 1891.	For 1892.
For quarry work.....	\$ 1,000	\$ 1,000
For salary of warden and book-keeper.....	1,800	1,800

For subordinate employes.....	6,500	6,500
For maintenance.....	9,500	9,500
For clothing.....	1,200	1,200
For incidentals.....	1,000	1,000
For aid of discharged convicts.....	1,500	1,500
For deputy warden.....	900	900
For repairs and improvements.....	1,000	1,000
For physician and medicine.....	425	425
For chapel service.....	125	125
For light and fuel.....	4,000	4,000
	<u>\$28,950</u>	<u>\$28,950</u>

§ 15. *Hospital for the Insane.*]

	For 1891.	For 1892.
For maintenance and clothing.....	\$29,000	\$29,000
For wages of subordinate employes.....	15,000	15,000
For salary of officers.....	4,000	4,000
For incidental expenses.....	1,000	1,000
For drugs, books and amusements.....	1,000	1,000
For repairs and improvements.....	1,200	1,200
For wood pipe, hydrant, hose and iron pipe	500	500
For fuel and light.....	12,00[0]	12,00[0]
For return of patients and escapes and for burials.....	900	900
For repairing boilers.....	750	
For lady physician.....	1,000	1,000
	<u>\$66,350</u>	<u>\$65,600</u>

§ 16. *Soldiers' Home.*]

	For 1891.	For 1892.
For commandant.....	\$ 700	700
For surgeon.....	200	200
For adjutant.....	100	100
For quartermaster.....	100	100
For hospital steward.....	100	100
For engineer and assistant.....	600	600
For cook and assistants.....	600	600
For laundress.....	240	240
For teamster.....	96	96
For two men of all work.....	192	192
For incidentals.....	250	250
For contract for pumping water.....	800	800
For fuel and lights.....	1,000	1,000
For medical supplies.....	400	400
For feed for horses and cows.....	300	300
For maintenance.....	7,000	8,000
For clothing.....	2,000	2,000

For sewerage.....	50	
For fencing.....	100	
For bridge.....	150	
For root cellar and ice chest.....	100	
For barn.....	250	
	<u>\$15,328</u>	<u>\$15,678</u>

§ 17. *Bonded Indebtedness.*]

	For 1891.	For 1892.
For interest on bonds.....	\$54,000	\$54,000

§ 18. *Commissioners of Soldiers' Home.*]

	For 1891.	For 1892.
For salary of commissioners.....	\$ 650	\$ 650
For salary of secretary.....	100	100
	<u>\$ 750</u>	<u>\$ 750</u>

§ 19. *Public Examiner.*]

	For 1891.	For 1892.
For salary.....	\$ 1,500	\$ 1,500
For expenses.....	600	600
	<u>\$ 2,100</u>	<u>\$ 2,100</u>

§ 20. *State Militia.*]

	For 1891.	For 1892.
For salary and maintenance.....	\$ 4,000	\$ 4,000

§ 21. *Insurance on Public Buildings.*]

	For 1891.	For 1892.
For insuring state house.....	\$ 300	\$ 300
For insuring Hospital for Insane.....	600	600
	<u>\$ 900</u>	<u>\$ 900</u>

§ 22. *State Board of Charities and Corrections.*]

	For 1891.	For 1892.
For expenses.....	\$ 1,500	\$ 1,500

§ 23. *State Board of Regents.*]

	For 1891.	For 1892.
For expenses.....	\$ 1,000	\$ 1,000

§ 24. *Trustees Educational Institutions.*]

	For 1891.	For 1892.
For expense of board of trustees.....	\$ 1,500	\$ 1,500

§ 25. <i>Mine Inspector.</i>]		
	For 1891.	For 1892.
For salary.....	\$ 1,000	\$ 1,000
For expenses.....	1,000	1,000
	<u>\$ 2,000</u>	<u>\$ 2,000</u>

§ 26. <i>State Board of Agriculture.</i>]		
	For 1891.	For 1892.
For premiums and expenses of state fair....	\$ 2,000	\$ 2,000

§ 27. <i>Railroad Commissioners.</i>]		
	For 1891.	For 1892.
For salaries of commissioners.....	\$ 4,500	\$ 4,500
For incidental expenses.....	500	500
	<u>\$ 5,000</u>	<u>\$ 5,000</u>

§ 28. <i>Commissioner of Labor Statistics.</i>]		
	For 1891.	For 1892.
For salary of commissioner.....	\$ 1,000	\$ 1,000
For stationery and incidentals.....	375	375
	<u>\$ 1,375</u>	<u>\$ 1,375</u>

§ 29. <i>Engineer of Irrigation.</i>]		
	For 1891.	For 1892.
For salary of engineer.....	\$ 1,000	\$ 1,000
For expenses.....	500	500
	<u>\$ 1,500</u>	<u>\$ 1,500</u>

§ 30. COMPENSATION OF CLERKS OF LAND OFFICES.]
For compensation of clerks of land offices at Aberdeen, Huron, Watertown, Mitchell, Yankton, Rapid City, Pierre and Chamberlain for furnishing certified lists of lands becoming taxable—any balance after payment of above services to be covered into the treasury. For each year, \$600.

§ 31. EXCESS APPROPRIATIONS—CREDITED PRO RATA.]
The above and foregoing appropriations are, and each one is appropriated in excess of the amounts stated, pro rata, to cover the period from March 8, 1893, to June 30, 1893, inclusive, to the end that a fiscal year may be established, and the state auditor is hereby authorized to credit each appropriation, pro rata, for the time stated.

§ 32. REPEAL.] All acts or parts of act in conflict with the provisions of this act are hereby repealed, and the state auditor shall issue no warrants in excess of the appropriations made herewith, or to any state institution, state officer or board,

whether appointed or elected, except as provided by the provisions of this act, or may hereafter be provided by law.

§ 33. EMERGENCY.] There being now no appropriations, therefore an emergency is declared to exist, and this act shall take effect on and after its passage and approval.

Approved March 9, 1891.

CHAPTER 7.

[S. B. 114.]

FOR DEFICIENCIES IN PRINTING AND LEGISLATIVE SUPPLIES.

AN ACT to Appropriate Money for Deficiencies in Printing and Legislative Supplies, and Other Deficiencies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the state, not otherwise appropriated, the following sums of money to defray the deficiencies in printing and legislative supplies, to-wit:

Courier-News, Watertown.....	\$ 37 50
Bowen & Kingsbury, Yankton.....	37 50
Aberdeen Daily News, Aberdeen.....	37 50
Sioux Falls Daily Press, Sioux Falls.....	37 50
The Mitchell Printing Co., Mitchell.....	37 50
Free Press Co., Pierre.....	37 50
Rapid City Republican, Rapid City.....	37 50
Deadwood Daily Times, Deadwood.....	37 50
Pierre Publishing Co., Pierre, balance due on Senate Journal.....	1,938 14
Pierre Publishing Co., balance due on superintendent's annual report.....	193 60
W. N. Johnson, indexing Senate Journal.....	50 00
State Bindery Co., Pierre, balance due on printing laws.....	57 82
Aberdeen Daily News, Aberdeen, supplies.....	184 79
The Pierre Publishing Co., stationery.....	314 50
A. H. Andrews & Co., furniture.....	78 00
Geo. D. Barnard & Co., election certificates.....	37 50
Shannon & Longstaff, House and Senate Journal....	105 50
D. I. Willard & Co., sundries.....	11 85

Second Regiment Band, for rent of armory from March to August, 1888.....	75 00
Mitchell Printing Co., for printing public examiner's report.....	78 50
Free Press Co., balance due for printing House Journal for 1890.....	1,444 20
Free Press Co., printing report of trustees Soldiers Home.....	61 24
Free Press Co., printing report of state board of health.....	248 06
Aberdeen Daily News Co., printing report of commissioner of immigration.....	154 00
Aberdeen Daily News Co., binding report of commissioner of immigration.....	50 00
Perkins Bros. Co., supplies.....	46 50
Assistant secretary and clerk, secretary of state's office, January 1, 1891, to March 8, 1891.....	370 00
Clerk hire, commissioner of school and public lands, January 1, 1891, to March 8, 1891.....	141 00
Commissioner of school and public lands, incidentals	10 00
Expenses incurred in providing for the protection of settlers in the late Indian uprising.....	2,000 00
Wm. Box, supplies for the senate.....	22 15
For balance due Page & Co. on heating contract at Soldiers Home.....	800 00
For balance due on cooking apparatus at Soldiers Home.....	500 00
For extra on heating contract at Soldiers Home.....	513 00
Kit of plumbing tools at Soldiers Home.....	160 00
For the following claims against the Reform School at Plankinton:	
F. L. White.....	129 00
Champney Bros.....	7 25
H. A. Tartsell.....	29 95
Chas. Allers.....	7 47
S. A. Marks.....	5 13
J. D. Bartow & Co.....	82 35
Mitchell Dry Goods Co.....	53 60
J. H. Clute.....	20 00
E. A. Leichenestein.....	20 64
H. H. Dwight.....	50 64
C. S. Deering.....	53 86
Henry Daveline.....	40 00
W. N. Depeau.....	33 00
A. H. Dunn.....	10 58
Bank of Plankinton.....	130 00
Farmers and Merchants Bank.....	120 00
R. F. Brown.....	82 00

J. F. Bartow.....	146 00
A. C. Harris.....	35 00
Geo. Kindrick.....	58 45
M. Kohn.....	67 49
S. Smith.....	24 50
S. A. McEvery.....	38 00
J. H. Simmons.....	6 25
For coal and gas used by supreme court.....	127 00
Janitor services supreme court.....	175 00
Six storm sash and work on same.....	39 00
To Shannon & Longstaff, for printing the first annual report of the engineer of irrigation and furnish- ing electrotypes for same.....	187 50

§ 2. DUTY OF AUDITOR.] The state auditor shall only issue his warrants on certified itemized vouchers filed in his office.

§ 3. EMERGENCY.] Whereas, there is no law covering deficiencies, therefore an emergency exists and this act shall take effect and be in force on and after its passage and approval.

Approved March 10, 1891.

CHAPTER 8.

[S. B. 68.]

MILEAGE AND PER DIEM AND SALARIES OF MEMBERS AND EMPLOYES OF LEGISLATURE.

AN ACT Providing for an Appropriation for the Per Diem and Mileage of the President and Members of the Senate, and for the Members of the House of Representatives of the Second Legislature of the State of South Dakota, and for the Per Diem of the Subordinate Employees of Both Branches of the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary out of any moneys in the state treasury not otherwise appropriated, for the purpose of paying the per diem and mileage of the President and members of the Senate and members of the House of Representatives of the Second Legislature of

the State of South Dakota, and for the per diem of the subordinate employes of both branches of the same, viz:

§ 2. MILEAGE AND PER DIEM.]

For per diem, president senate	\$ 600 00
For mileage, president senate	112 40
For per diem, members senate	13,500 00
For mileage, members senate	2,563 20
For per diem, members house	37,200 00
For mileage, members house	7,345 90
For per diem. employes senate	3,750 00
For per diem, employes house	6,500 00

§ 3. EMERGENCY.] Whereas, there is now no appropriation to pay members of the legislature or employes; it is declared an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved January 21, 1891.

CHAPTER 9.

[H. B. 326.]

FOR CERTAIN FUNERAL EXPENSES.

AN ACT Providing for an Appropriation for the Expenses of the Committee on Arranging for the Funerals of the late Hon. H. J. Austin and Hon. J. C. Heilman.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any funds in the state treasury not otherwise appropriated, the sum of one hundred and thirty-six dollars and sixty-five cents to pay the expenses of the special committee of this legislature in arranging for and attending the funeral of the late Hon. H. J. Austin.

§ 2. APPROPRIATION.] That there is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of one hundred dollars or so much thereof as may be necessary to pay the expenses of the committee on arranging for the funeral of the late Hon. J. C. Heilman.

§ 3. AUDITOR TO ISSUE WARRANTS.] That the state auditor is hereby directed to issue warrants to the several persons

entitled to them, as shown by the report of the special committee named in Section 1.

§ 4. AUDITOR TO ISSUE WARRANTS.] That the state auditor is hereby directed to issue warrants to the several persons entitled to them, for such expenses as shown by the report of the special committee referred to in Section 2 of this act.

§ 5. EMERGENCY.] Whereas, there is no appropriation for said expenses, an emergency is hereby declared, and this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 10.

[H. B. 94.]

FOR EXPENSE OF SELECTING ENDOWMENT LAND.

AN ACT to Provide Means for the Purpose of Paying the Expenses of Selecting Six Hundred and Twenty Thousand Acres of Endowment Lands-Granted by Congress to the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That for the purpose of paying the expense of selecting six hundred and twenty thousand acres of land, granted by congress to the State of South Dakota for endowment purposes, there is hereby appropriated out of any money in the treasury not otherwise appropriated, for United States land office fees, the sum of seven thousand six hundred and forty (\$7,640.00) dollars. For selecting and locating said lands the sum of fifteen hundred dollars (\$1,500.00.)

§ 2. DUTY OF COMMISSIONER OF SCHOOL AND PUBLIC LANDS.] It is hereby made the duty of the commissioner of school and public lands to immediately proceed to select the lands mentioned in Section one (1) of this act, and he shall receive no compensation except actual expenses while so engaged, which shall be itemized and verified under oath before warrant for the same is drawn by the state auditor.

§ 3. EMERGENCY.] That, Whereas, a necessity exists for the immediate selection of the lands described in Section one (1) of this act, that the title may be vested in the State of South Dakota at the earliest possible moment, so that the state may receive the full benefit from said lands, therefore an emergency

is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 11.

[H. B. 145.]

FOR STATIONERY AND SUPPLIES FOR LEGISLATURE.

AN ACT to Provide for an Appropriation for Furniture, Stationery and Other Supplies for the Legislature of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the sum of five hundred dollars, or so much thereof as may be necessary, out of any funds in the state treasury not otherwise appropriated, for the payment of bills for furniture, stationery and other supplies for the legislature that may be required up to and including the last day of the session.

§ 2. DUTY OF AUDITOR.] That the state auditor is hereby authorized and it is made his duty to audit all bills for such furniture, stationery and other supplies, when approved by the secretary of state, and issue his warrant on the state treasurer for the payment of the same.

§ 3. EMERGENCY.] There being no appropriation available to pay for such furniture, stationery and other supplies, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1891.

CHAPTER 12.

[S. B. 180.]

FOR CERTAIN EXPENSES INCURRED IN PRINTING AND SALE OF STATE BONDS.

JOINT RESOLUTION Authorizing the Payment of Certain Expenses Incurred in the Printing and Sale of State Bonds, and other Expenses.

Be it Resolved by the Senate of the State of South Dakota, the House of Representatives Concurring Therein:

That the payment of the following items of expense, namely, the bills of Barnard & Co. for sixty-nine dollars and sixty-one dollars respectively for work done in printing and lithographing the state bonds issued in pursuance of Chapter 30 of

the Session Laws of 1890, being an act entitled "An act to authorize the issuance of bonds of the State of South Dakota to pay the share of the floating indebtedness of the Territory of Dakota, assumed by the State of South Dakota, also to authorize the issuance of its bonds in the amount of \$100,000 to meet casual deficits and failure in revenue," also the bill of the Sioux Falls Press Co. for twenty-three dollars for publishing the notice of the call of territorial funding warrants, be and the same is hereby authorized and the state auditor is hereby directed to draw his warrants for the payment of said bills.

CHAPTER 13.

[S. B. 250.]

FOR PAYMENT OF CERTAIN CLAIMS.

AN ACT to Provide for the Payment of Certain Claims Due Laborers, for Work Done and Material Furnished for the Construction of the New Wings to the Insane Hospital at Yankton.

Whereas, The legislature did by an act entitled "An act to create a commission to adjust certain claims," approved March 7, 1890, provide for a commission consisting of the secretary of state and the attorney general, for the purpose of investigating the correctness and justness of all claims which might be presented to said commission for labor done or materials furnished for the new wings to the Hospital for the Insane at Yankton, and whereas said commission proceeded to investigate and did investigate the correctness and justness of said claims as directed in said act, and subsequently, and on the 10th day of January, 1890 did file with the governor of the state a full and detailed report of the several amounts which said commission found due to the claimants for work and labor done and materials furnished for said Hospital for the Insane, amounting in the aggregate to the sum of \$12,404.97, therefore;

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DUTY OF AUDITOR AND TREASURER.] That the state auditor be and is hereby authorized and directed to draw his several warrants on the state treasurer in favor of the persons named in the said report to the governor, or their assigns, for the several sums found and stated to be due to said persons in said report. *Provided*, That said warrants shall not be paid by the state treasurer until the first day of March, A. D. 1893, and shall not draw interest until after said date.

Approved March 7, 1891.

ASSESSMENT AND TAXATION.

CHAPTER 14.

[S. B. 171.]

ASSESSMENT, LEVY AND COLLECTION OF TAXES.

AN ACT Prescribing the Mode of Making Assessment and the Levy and Collection of Taxes, and for Other Purposes Relative Thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DEFINITION OF TERMS USED IN THIS ACT.] The word "money" or "moneys" wherever used in this act shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust and residing in this state is entitled to withdraw on money or demand; the term "credits" wherever used in this act, shall be held to mean and include every claim and demand for money or other valuable things, and every annuity or sum of money receivable at stated periods, due, or to become due, and all claims and demands secured by deeds or mortgage due or to become due. The terms "tract" or "lot" and "piece" or "parcel" of real property, and "piece or parcel of land," wherever used in this act shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person or company; every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural may be applied and limited to the singular number; and every word importing the masculine gender only may be extended and applied to females as well as males; wherever the word "oath" is used in this act it may be held to mean affirmation; and the word "swear" in this act may be held to mean affirm; the words "town" or "district" wherever used in this act shall be construed to mean townships, villages, city or ward, as the case may be. The term "true and full value" wherever used in this act, shall be construed to mean the usual cash selling price at the place where the property to which the term is applied shall be at the time of the assessment. The term "person" wherever used in this act, shall be construed to include firm, company or corporation.

§ 2. PROPERTY SUBJECT TO TAXATION.] All real and personal property in this state, and all personal property of

persons residing therein, and the property of corporations, now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created except such as is hereinafter expressly excepted is subject to taxation; and such property or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed in this act.

§ 3. REAL PROPERTY DEFINED.] Real property, for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, trees or other fixtures of whatsoever kind thereon, and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries in and under the same. *Providing*, That trees planted under the timber culture act of congress shall not be considered as improvement on land for the purpose of taxation. The lands upon which any artesian wells shall be constructed by the owner thereof or upon which the same have been constructed by the owner thereof, shall not be assessed at any greater value by reason of said improvements, but the said lands shall be assessed the same as other lands in the locality of the same general character not irrigated or watered by artesian wells.

§ 4. PERSONAL PROPERTY DEFINED.] Personal property shall for the purpose of taxation, be construed to include all goods, chattels, moneys, credits and effects, wheresoever they may be; all ships, boats and vessels belonging to the inhabitants of this state, whether at home or abroad, and all capital invested therein; all moneys at interest, whether within or without this state, due the person to be taxed and all other debts due such person; all public stocks and securities; the capital stock of all insurance companies organized under the laws of this state; all stock in turnpikes, railroads, canals and other corporations, except national banks out of the state, owned by the inhabitants of the state; all personal estate of moneyed corporations, whether the owners thereof reside in or out of the state, and the income of any annuity, unless the capital of such annuity be taxed within the state; all shares of stock in any bank organized, or that may be organized, under any law of the United States or of this state, and all improvements made by persons upon lands, held by them under the laws of the United States, and all such improvements upon lands the title of which is still vested in any railroad company, or any other corporation whose property is not subject to the same mode and rule of taxation as other property.

§ 5. PROPERTY EXEMPT FROM TAXATION.] All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

First. The grounds, buildings and all property belonging

to or used exclusively by agricultural and horticultural societies.

Second. All property, both real and personal, belonging to any educational institution in this state, and all property used exclusively by and for the support of such school and scientific institution.

Third. All property belonging to any charitable, benevolent or religious society, or used exclusively for charitable, benevolent or religious purposes.

Fourth. One lot in a cemetery for family use.

Fifth. The personal property of each individual liable to assessment and taxation under the provisions of this act, of which such individual is the actual and bona fide owner, to the amount of not exceeding twenty-five dollars in value, in household furniture and provisions. *Provided*, That each person shall list all of his personal property for taxation, and the county auditor shall deduct, after county equalization, the amount of the exemption authorized by this section, from the total amount of his assessment and levy taxes upon the remainder.

§ 6. LISTING OF REAL AND PERSONAL PROPERTY.] All real and personal property in this state subject to taxation shall be listed and assessed every year with reference to its value on the first day of May preceding the assessment.

§ 7. MANNER OF LISTING PROPERTY.] Personal property shall be listed in the manner following:

First. Every person of full age and sound mind, being a resident of this state, shall list his moneys, credits, bonds or stock shares, or stock of joint or other companies (when the property of such company is not assessed in this state,) moneys loaned or invested, annuities, franchises, royalties and other personal property.

Second. He shall also list separately and in the name of his principal all moneys and other personal property invested, loaned or otherwise controlled by him as the agent or attorney or on account of any other person or persons, company or corporation whatsoever; and all moneys deposited subject to his order, draft or check, and credits due from or owing to any person or persons, body corporate or politic.

Third. The property of a minor child shall be listed by his guardian or by the person having such property in charge.

Fourth. The property of an idiot or lunatic, by the person having charge of such property.

Fifth. The property of a person for whose benefit it is held in trust by the trustee of the estate of a deceased person, by the executor or administrator.

Sixth. The property of corporations whose assets are in the hands of receivers, by such receivers.

Seventh. The property of a body politic or corporate, by the president or proper agent or officer thereof.

Eighth. The property of a firm or company, by a partner or agent thereof.

Ninth. The property of manufacturers and others in the care of an agent in the name of his principal, as merchandise.

§ 8. PLACE OF LISTING PERSONAL PROPERTY.] Personal property, except such as is required in this act to be listed and assessed otherwise shall be listed and assessed in the county, town or district where the owner or agent resides; the capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed in the county, town or district where the principal office or place of business of such corporation or person is located in this state; if there be no principal office or place of business in this state where any such corporation or persons transact business, then personal property pertaining to the business of a merchant or manufacturer shall be listed in the town or district where his business is carried on.

§ 9. PROPERTY OF TRANSPORTATION COMPANIES, ETC.. WHERE TO BE LISTED.] The personal property of stage companies shall be listed and assessed in the county, town or district where the same is usually kept, except as herein otherwise provided. All persons, companies and corporations in this state owning steamboats, sailing vessels, wharf boats, barges and other water crafts shall be required to list the same for assessment and taxation in the county, town or district in which the same may belong, or be enrolled, registered or licensed, or kept not enrolled, registered or licensed.

§ 10. OF GAS AND WATER COMPANIES—WHERE LISTED.] The personal property of gas and water companies shall be listed in the town where the principal works are located; gas and water mains and pipes laid in roads, streets or alleys shall be held to be personal property.

§ 11. OF STREET RAILWAY COMPANIES—WHERE LISTED, ETC.] The personal property of street, railroad, plank road, gravel road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the principal place of business is located, and the track, road or bridge shall be held to be personal property.

§ 12. NON RESIDENT'S FARM PROPERTY—WHERE LISTED.] Where the owner of live stock or other personal property connected with a farm does not reside thereon, the same shall be listed and assessed in the town or district where the farm is situated.

§ 13. PERSONAL PROPERTY MOVED BETWEEN MAY 1 AND JUNE 1.] The owner of personal property moving from one county, town or district to another between the first day of May

and the first day of June, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state or territory between the first day of May and the first day of June, shall list the property owned by him on the first day of May of such year in the county, town or district in which he resides. *Provided*, If such person has been assessed and can make it appear to the assessor that he is held for tax of the current year on the property in another territory or state, county, town or district, he shall not again be assessed for such year.

§ 14. PLACE OF LISTING—HOW DECIDED AND IN CASE OF DOUBT.] In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board, and when between different counties or places in different counties, by the auditor of the state, and when fixed in either case shall be as binding as if fixed by this act.

§ 15. LIST OF PERSONAL PROPERTY TO BE MADE UNDER OATH.] Every person required by this act to list property, shall make out and deliver to the assessor; when required, a statement verified by oath of all the personal property in his possession or under his control, and which by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor, but no person shall be required to include in his statement any share or portion of the capital stock or property of any company or corporation, which such company is required to list or return as its capital and property for taxation in this state. It shall be the duty of the assessors in every town to require all persons giving in tax lists to sign, date and deliver to them a sworn statement upon said list, of the following form:

"I do hereby declare under oath that the foregoing list, according to the best of my knowledge and belief, is a true statement of all my property liable to taxation, and that I have included in said tax list all bonds, notes and other evidence of indebtedness, except such as are by statute exempt from taxation. I also declare under oath that I have not conveyed or temporarily disposed of any property for the purpose of evading assessment and taxation.

Dated this.....day of.....18....

.....sig.

Any person signing and delivering to the assessor a false statement of the foregoing form shall be guilty of the crime of perjury, and subject to punishment by law provided for this crime.

§ 16. VALUATION TO BE FIXED BY ASSESSOR—ITEM OF LIST.] It shall be the duty of the assessor to determine and fix the true and full value of all items of personal property included in such statement, and enter the same opposite such items respectively, so that when completed such statement shall truly and distinctly set forth:

First. The number of horses under three years old and three years old and over, and the value thereof.

Second. The number of cattle under two years old, the number of cows two years old and over, the number of all other cattle two years old and over, and the value thereof.

Third. The number of mules and asses of all ages, and the value thereof.

Fourth. The number of sheep of all ages and the value thereof.

Fifth. The number of hogs of all ages and the value thereof.

Sixth. The number of wagons and carriages of whatsoever kind, and the value thereof.

Seventh. The number of melodeons and organs and the value thereof.

Eighth. The number of pianofortes, and the value thereof.

Ninth. The value of household furniture.

Tenth. The value of agricultural tools, implements and machinery.

Eleventh. The value of gold and silver plate and plated ware.

Twelfth. The value of diamonds and jewelry.

Thirteenth. The value and description of every franchise, annuity, royalty, and patent right.

Fourteenth. The value of every steamboat, sailing vessel, wharf boat, barge, or other water craft.

Fifteenth. The value of goods and merchandise, which such person is required to list as a merchant.

Sixteenth. The value of materials and manufactured articles which such person is required to list as a manufacturer.

Seventeenth. The value of manufacturer's tools and implements and machinery, including engines and boilers.

Eighteenth. The amount of moneys of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Nineteenth. The amount of credits of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Twentieth. The amount of moneys other than of banks, bankers, brokers and stock jobbers.

Twenty-first. The amount of credits other than of banks, bankers, brokers and stock jobbers.

Twenty-second. The amount and value of bonds and stocks, other than bank stock.

Twenty-third. The amount and value of shares of bank stock.

Twenty-fourth. The amount and value of shares of capital stock of companies and associations not incorporated by the laws of the state.

Twenty-fifth. The value of stock and furniture of sample rooms and eating houses, including billiard tables or other similar tables.

Twenty-sixth. The value of all other articles of personal property, not included in the preceding twenty-five items.

Twenty-seventh. The value of all elevators, warehouses and grain therein, and improvements on lands, the title of which is vested in any railroad company.

Twenty-eighth. The value of all improvements, except plowing, on lands held under the laws of the United States and upon which final proof has not been made and accepted. The capital stock of insurance companies organized under the laws of this state shall be assessed against such companies at the place where their principal office is located in this state.

§ 17. EXAMINATION UNDER OATH BY ASSESSOR—REFUSAL TO ANSWER.] Whenever the assessor shall be of [the] opinion that the person listing property for himself or for another person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of property he is required to list, and if such person shall refuse to answer under oath and a full discovery make, the assessor may list the property of such person or his principal, according to his best judgment and information.

§ 18. CREDITS—HOW LISTED AND ASSESSED,] Any person who is required to list credits, either for himself or for any other person, firm or corporation, may deduct from the gross amount thereof the amount of all bona fide indebtedness of himself or of any such person, firm or corporation; but no acknowledgment of indebtedness not founded on actual consideration to the full amount of such acknowledgment at the time when the same was given and no acknowledgment made for the purpose of being so deducted, shall be considered a debt in the meaning of this section, and every person so claiming any deductions shall furnish the assessor with a list containing:

First. The amount of all book accounts.

Second. The amount of all notes due to him, and also a list of the amount of all book accounts owing by him, and of the amount of all notes owing by him, and he shall be required to verify the same by oath administered by the assessor. Nothing in this section shall be so construed as to apply to any

bank, banker or corporation exercising banking powers or privileges. *Provided, however,* that any person, company or corporation in making up the amount of personal property required to be listed for himself, company or corporations shall be allowed to deduct from the gross amount thereof any indebtedness of himself, company or corporation, if the same be owned or held within this state. *Provided, further,* that grain held by the producer of the same, actually sold or contracted to be sold, but not delivered shall be classed as credits.

§ 19. WHAT ARE PROPER DEDUCTIONS—VERIFICATIONS OF DEDUCTIONS.] No person, company or corporation shall be entitled to any deductions on account of any bond, note or obligation of any kind given to any Mutual Insurance Company, nor on account of any unpaid subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated; and in all cases where deductions are claimed from credits, the assessor shall require that such deductions be verified by oath of the person, officer or agent claiming the same; and any such person, officer or agent knowingly or wilfully making a fraudulent statement of such deductions claimed, so verified by affidavit shall be liable to a fine of not less than one hundred (100) dollars, nor more than \$1,000 in addition to all damages sustained by the state, county or other local corporation to be recovered in any proper form of action in any court of competent jurisdiction, in the name of the State of South Dakota.

§ 20. WHO ARE DEEMED TO BE MERCHANTS—PROPERTY CONSIGNED—NURSERY STOCK.] Whoever owns or has in his possession, or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property, within this state, with authority to sell the same which has been purchased either in or out of the state with a view to being sold at an advanced price or profit, or which has been consigned to him from out of this state, for the purpose of being sold at any place within this state, shall be held to be a merchant, and when he is by this act required to make out to the assessor a statement of his personal property, he shall state the value of such property pertaining to his business as a merchant.

§ 21. WHO ARE DEEMED TO BE MANUFACTURERS—WHAT TO BE LISTED.] Every person who purchases, receives or holds personal property of any description for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view to making gain or profit by so doing, shall be held to be a manufacturer; and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the

value of all articles purchased, received or otherwise held for the purposes of being used in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer shall list, as part of his manufacturer's stock, the value of all his engines and machinery of every description, used or designed to be used in any process of refining or manufacturing, including all tools and implements of every kind used or designed to be used for the aforesaid purpose, except such fixtures as have been considered as part or any parcel of real property.

§ 22. PROPERTY OF COMPANIES OR ASSOCIATIONS—HOW AND BY WHOM LISTED.] The president, secretary or principal accounting officer of any company or association, whether incorporated or unincorporated, except such corporations as are otherwise specifically provided for in this act, shall make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. The name and location of the company or association.

Second. The amount of capital stock authorized and the number of shares into which said capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if they have no market value, then the actual value of the shares of the stock.

Fifth. The total amount of all indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all real property, if any.

Seventh. The value of its personal property. The aggregate amount of the fifth, sixth and seventh items shall be deducted from the total amount of the fourth, and the remainder, if any, shall be listed as bonds or stocks under subdivision 24 of section 16 of this act, the real and personal property of each company or association shall be listed and assessed the same as other personal property, in all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

§ 23. BANKERS, BROKERS AND STOCK JOBBERS, HOW AND WHAT THEY SHALL LIST.] The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber, shall make out and deliver to the assessor, when required to list personal property, a statement which he shall verify by oath showing:

First. The amount of money on hand or in transit.

Second. The amount of funds in the hands of other banks, brokers or others subject to draft.

Third. The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

Fourth. The amount of bills receivable, discounted or purchased and other credits due or to become due, including accounts receivable, interest accrued but not due and interest due and unpaid.

Fifth. The amount of bonds and stocks of every kind (except United States bonds) and shares of capital stock of joint stock or other companies or corporations, held as an investment or in any way representing assets.

Sixth. All property pertaining to said business, other than real estate, which real estate, shall be listed and assessed as other real estate is listed and assessed under this act.

Seventh. The amount of all deposits made with them by other parties.

Eighth. The amount of all accounts payable, other than current deposit accounts. The amount of the seventh and eighth items shall be deducted from the aggregate amounts of the first, third and fourth items, and the remainder if any, shall be listed as money under Subdivision 18 of Section 16 of this act, according to the provisions of said Section 16, the amount of the fifth item shall be listed as bonds and stock under the said section 16, and the said sixth item shall be listed the same as other similar personal property is listed under this act, except that in the case of savings banks organized under the laws of this state, the amount of the seventh and eighth items above enumerated shall be deducted from the aggregate amount of the first, second, third, fourth, fifth and sixth items also above enumerated, and the remainder, if any, shall be listed as credits according to the provisions of said Section 16.

§ 24. BANK STOCK—WHERE AND AT WHAT VALUATION TO BE LISTED.] The stockholders of every bank located in this state, whether such bank has been organized under the banking laws of this state or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not, such shares shall be listed and assessed annually with regard to the ownership and the value thereof on the first day of May of each year. To aid the the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of capital stock of such bank, the amount of its surplus or reserve fund, and the amount of its legal investments in real estate, which real estate shall be assessed and

taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks, not located in this state held in this state shall not be required to be listed under this act.

§ 25. BANK TO KEEP AND FURNISH LISTS OF STOCKHOLDERS.] In every bank and banking office there shall be kept at all times a full and correct list of the names and residences of the stockholders, owners or parties interested therein, showing the number of shares and amount held, owned or controlled by each party in interest, which statement or list shall be subject to the inspection of the officer authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution to furnish the assessor with a duplicate copy of such statement, verified by oath, which shall be returned to the county auditor and filed in his office.

§ 26. TAXES ON BANK STOCK TO BE LIEN ON DIVIDENDS.] To secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer, or any such bank who shall pay over or authorize the paying over of any such dividend or a portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer where said bank is located shall sell such shares or interest to pay the same, like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock, when sold on execution, shall apply to such sale.

§ 27. CERTAIN PROPERTY HELD TO BELONG TO LESSEE OR EQUITABLE OWNER.] Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to the state, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or corporation whose property is not taxed in the same manner as other property shall be considered for all purposes of taxation as the property of the person so holding the same.

§ 28. ALL PROPERTY TO BE ASSESSED AT FULL VALUE—VALUE HOW DETERMINED.] All property shall be assessed at

its true and full value in money. In determining the true and full value of real and personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value, the price for which said property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself and at such a sum or price as he believes the same to be fairly worth in money.

In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also the value of all improvements and structures thereon, and the aggregate value of the property including all structures and other improvements, excluding the value of crops growing upon cultivated lands.

In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property including the mine or quarry, would sell at a fair voluntary sale for cash.

Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof.

Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the current price of the same so payable; if for a specific article or a specific number or quantity of any article of property, or for a certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or for such labor or services at the place where payable.

§ 29. COUNTY AUDITOR TO FURNISH BOOKS, ETC.—MEETING OF ASSESSORS.] The county auditor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district or township. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of April in each year; and the assessors shall meet on that day, at the office of the county auditor, for the purpose of receiving such books and blanks, and for conference with the auditor and county commissioners in reference to the performance of their duties, and the commissioners shall meet on that day for that purpose.

§ 30. ASSESSOR DISTRICTS—BOUNDARIES OF—VACANCIES, HOW FILLED—FEES—ELIGIBILITY.] Each county in this state not fully organized into civil townships, shall comprise an assessor's district, excluding organized civil townships, and the assessor thereof shall be elected at the same time that state officers are elected. *Provided*, That any vacancy may be filled by appointment by the county commissioners. Each organized civil township in this state shall constitute an assessor district,

and there shall be one assessor elected for each one of said districts annually at the time that other town officers are elected. *Provided*, Any vacancy in township assessor may be filled by appointment by the board of supervisors of said township where vacancy exists. *Provided*, That cities organized under the general laws of this state shall not be included in the district provided for in this section, but assessors of such cities shall act with the board of county assessors in any of their meetings. All assessors of this state shall receive not to exceed three (3) dollars per day for the time actually employed in making and completing said assessment, but not to exceed forty (40) dollars for assessing any one civil township. *Provided further*, That no person shall be eligible to be assessor unless he is a voter in the district or township for which he is to be assessor.

§ 31. BOND AND OATH OF ASSESSOR.] Every person elected or appointed to the office of assessor shall, at or before the time of receiving the assessment books, file with the county auditor his bond, payable to the State of South Dakota with at least two good freeholders [as] sureties, to be approved by the board of township supervisors in counties organized into civil townships, and in counties not so organized, by the board of county commissioners, in the penal sum of five hundred (500) dollars, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he will moreover take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act, and if any person so elected or appointed fails to give bond or fails to take the oath required within the time prescribed, such failure shall be deemed a refusal to serve.

§ 32. ASSESSMENTS—WHEN AND HOW MADE.] The assessor shall perform the duties required of him during the months of May and June of each year, except in cases otherwise provided, and in the following manner to wit: He shall actually view when practicable, and determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof in one column and the value of all improvements or structures thereon in another column, opposite each description of property, also the total value of the same including improvements and structures. He shall make an alphabetical list of the names of all persons in his town or district liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books opposite the name of the party assessed,

and in making such entry in his assessment books he shall give the name and the postoffice address of the party listing the property, and if the party resides in a city the assessor shall give the street and number, or other brief description of the residence or place of business. *Provided*, That personal property shall be assessed upon view by the assessor at any time within the limits prescribed by the provisions of this act, at its then actual value regardless of any change of ownership prior to the date of such assessment, but if the owner, factor or agent can show by duly authenticated certificate that the property has been lawfully assessed in any other town, city, village or district in this state for that year, then such property shall not be assessed.

§ 33. STATEMENT OF PERSONAL PROPERTY TO BE MADE BY OWNERS.] The assessor shall call at the office, place of business, or residence of each person required by this act to list property and list his name, and shall require such person to make a correct statement of his property in accordance with the provisions of this act, and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property and delivered to the assessor, who shall thereupon assess the value of such property and enter the same in his books. *Provided*, If any property is listed or assessed on or after the last day of June and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time.

§ 34. SICKNESS AND ABSENCE OF OWNER—DUTY OF ASSESSOR.] If any person required by this act to list property be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office or usual place of business or residence of such person, a written or printed notice requiring such person to make out and leave at the place named by such assessor, on or before some convenient day named therein, the statement or list required by this act, the date of leaving such notice, and the person required to list the property shall be noted by the assessor in his assessment book.

§ 35. REFUSAL TO LIST OR SWEAR TO STATEMENT—DUTY OF ASSESSOR—OATH.] In any case where any person whose duty it is to list personal property for taxation, has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person in an appropriate column the words "Refused to list" or "Refused to swear" as the case may be, and in every case where any person required to list property for taxation has been absent or unable by sickness to list the

same, the assessor shall enter opposite the name of such person in an appropriate column the words "Absent" or "Sick." And any person not sick or absent who refuses to list property or take and subscribe the oath as required by this act, the property of such person shall be assessed as hereinafter provided, and the assessor shall return the same to the board of county commissioners, and the county board of assessment and equalization shall add fifty per cent. to the amount as returned by the assessor, as the list of the person refusing to swear or affirm. The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine upon oath any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property.

§ 36. NUMBER OR NAME OF SCHOOL DISTRICT TO BE GIVEN WHERE PROPERTY IS ASSESSED.] It shall be the duty of assessors, when assessing personal property, to designate the number or name of the school district in which each person assessed is liable for tax, which designation shall be made by writing the number or name of the district opposite each assessment in a column provided for that purpose in the assessment book. When the personal property of any person is assessable in several school districts, the amount of each shall be assessed separately and the name of the owner placed opposite each amount.

§ 37. FAILURE TO OBTAIN ASSESSMENT—DUTY OF ASSESSOR.] In all cases of failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property and assess the same at such amount as he believes to be the true value thereof. The assessor when requested shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. The assessor of each district shall, on or before the fourth Monday in June of each year, file with the town or city clerk of each organized town or city, the assessment list or roll for such town or city, where it shall remain subject to the inspection of the residents or property owners of such town or city until the Saturday following.

§ 38. TOWN BOARD OF REVIEW—DUTIES—COMPLAINTS AND GRIEVANCES.] The board of supervisors of each town, the recorder and president of each incorporated village, and the assessor, recorder and mayor of each city (except cities whose charters provide for a board of equalization) shall meet on the fourth Monday of June at the office of the town clerk or

recorder for the purpose of reviewing the assessment of property in each town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor, and in case any property, real or personal shall have been omitted by inadvertence or otherwise, it shall be the duty of the said board to place the same upon the list with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property and each article, parcel or class of personal property shall be entered on the assessment list at the true value thereof; but the assessment of the property of any person shall not be raised until each person shall have been duly notified of the intent of the board so to do, and on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just; any two of said officers are authorized to act at such meeting and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day. *Provided*, That they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board. *Provided*, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 39. NOTICE OF MEETING OF BOARD OF REVIEW TO BE POSTED.] The assessor shall cause at least ten days previous notice of the time and place of the meeting of the town board of review, by posting notice in at least three public places in each town or district; but the failure to give such notice or hold such meeting shall not vitiate such assessment except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

§ 40. ASSESSOR'S STATEMENT AND RETURN TO AUDITOR.] 167 MAR. 204
The assessors shall add up and note the amount of each column in their assessment books after making the corrections made by the town board of review. They shall also make in each book, under proper headings a tabular statement showing the footings of the several columns upon the page and shall add up and set down, under the respective headings, the total amount of the several columns, and on or before the first Monday in July, he shall make return to the county auditor of his assessment books and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such returns shall be verified by his affidavit and substantially in the following form:

STATE OF SOUTH DAKOTA, } ss
 _____ County, }

I, _____, assessor of _____, do solemnly swear that the book to which this is attached contains a full list of all the real property (or personal property, as the case may be) subject to taxation in _____, so far as I have been able to ascertain the same, and that the assessed value set down in the proper column opposite the several kinds and descriptions of property is in each case the true and full value of such property, to the best of my knowledge and belief, (where the assessment has been corrected by the town board except as corrected by the town board), and that the footings of the several columns in said book and the tabular statement returned herewith is correct as I verily believe.

_____, Assessor.

Subscribed and sworn to before me this _____ day of _____ 18—.

[L. S.]

_____,
 Auditor of _____ county.

§ 41. LIST GIVEN TO AUDITOR FOR PERSONS SICK OR ABSENT.] If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person or his agent having charge of such property may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the county auditor in such case shall make an entry thereof and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor as provided herein; nor from any person, unless he makes and files with the county auditor an affidavit that he was absent from his town or district without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called upon for that purpose.

§ 42. AUDITOR TO EXAMINE ASSESSMENT BOOKS AND HAVE RETURNS CORRECTED.] The county auditor shall carefully examine the assessment books when returned to him by the assessors, and if he discovers that the assessment of any property has been omitted he shall enter the same upon the proper list and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value of such property and make the necessary corrections.

§ 43. COUNTY BOARD OF EQUALIZATION—MEETING—DUTIES.] The county commissioners, or a majority of them, with the county auditor, shall form a board for the equalization of the assessment of the property of the county; they shall meet for this purpose annually, on the first Monday in July, at the office of the auditor, and having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns and assessment of the property of the several cities whether organized under general law or special charter, towns or districts of the county, and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and full value, subject to the following rules:

First. VALUATION OF REAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true value to such price and sum as they believe to be the true and full value thereof, when in an unorganized civil township.

Second. SAME—WHEN TO BE REDUCED. They shall reduce the valuation of each tract or lot which in their opinion is returned above its true and full value to such price and sum as they believe to be the true and full value thereof, when in an unorganized civil township.

Third. VALUATION OF PERSONAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each class or article of personal property which in their opinion is returned below its true and full value to such price and sum as they believe to be the true and full value thereof, and they shall raise the aggregate value of the personal property of each individual, whenever they believe that such aggregate valuation is less than the valuation of the taxable personal property of such individual to such amount as they believe was the true and full value thereof, when in an unorganized civil township.

Fourth. SAME—WHEN TO BE REDUCED.] They shall upon complaint of any party aggrieved, being a non-resident of the town or district in which his property is assessed, reduce the valuation of each class of personal property enumerated in section 16 aforesaid, which in their opinion is returned above its true and full value, to such price and sum as they believe to be the true and full value thereof; upon like complaint they shall reduce the aggregate valuation of the personal property of such individual who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and full value of the personal property. *Provided*, That the assessment of the property of any resident of the county shall not be raised until such person shall have been duly notified of the intent of the board to do so.

Fifth. AGGREGATE VALUATION NOT TO BE REDUCED, BUT MAY BE INCREASED.] They shall not reduce the aggregate value of the real property, or the aggregate value of the personal property of their county below the aggregate value thereof, as returned by the assessors, except as it may be necessary to make the valuation in the different townships equal with the additions made thereto by the auditor as hereinbefore required, but they may raise the aggregate valuation of such real property and of each class of personal property of said county, or any town or district thereof, whenever they believe the sum is below the true and full value of said property or class of property, to such aggregate amount as they believe to be the true and full value thereof.

Sixth. AUDITOR TO PUBLISH RECORD—LENGTH OF TIME.] The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, showing the facts and evidence upon which their action is based, and said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of the state, with the abstract of the assessment hereinafter required. The county board of equalization may continue in session, and adjourn from day to day, not exceeding five (5) days, commencing on the said first Monday of July.

Seventh. BOARD MAY CORRECT ERRORS.] During the session of the said board of assessment and equalization any person or his attorney or agent feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any alleged errors in the listing or valuation of his property whether real or personal, and the board may correct the same as shall be just.

§ 44. CORRECTED LISTS—ABSTRACTS FOR STATE AUDITOR.] The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office and one copy he shall forward to the auditor of the state, on or before the fourth Monday of July following each county equalization, which abstract shall contain the following:

The whole number of acres of land listed in the county and the total value thereof.

The total valuation of town lots.

The amount of property invested in merchandise.

The amount of property invested in manufactures.

The number of horses and their total value.

The number of mules and asses and their total value.

The number of cattle and their total value.

The number of sheep and their total value.

The number of swine and their total value.

The number of carriages and vehicles of every kind and their total value.

The total value of moneys and credits.

The total value of household furniture.

The total value of stocks or shares.

The total value of all other personalty not enumerated under the foregoing heads, and the number of polls.

§ 45. STATE BOARD OF EQUALIZATION—MEMBERS OF—MEETING.] The governor, auditor, secretary of state, state treasurer and attorney general of the state shall constitute the state board of assessment and equalization. Said board of equalization shall hold a session at the seat of government commencing on the first Monday of August of each year. A majority of the members of said board shall constitute a quorum and have authority to act.

§ 46. DUTIES AND POWERS OF BOARD.] It shall be the duty of said board to examine and compare the returns of the assessment of the property of the several counties of the state, and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and proportionate value; but said board shall not reduce the aggregate assessed valuation in the state; but may increase said aggregate valuation in such an amount as may be reasonably necessary to obtain a just and true value and equalization of all the property in the state. The board may adjourn from day to day, and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The state auditor shall issue warrants upon the state treasurer for all necessary expenses of said board of assessment and equalization on presentation of proper vouchers therefor approved by the governor.

§ 47. EQUALIZATION OF ASSESSMENT—HOW TO BE DONE.] Said board has the power and shall:

First. Equalize the assessment of land by adding to the aggregate assessed value thereof, in every county in which said board may believe the valuation to be too low, such rate per centum as will raise the same to its proper proportionate value and by deducting from the aggregate assessed value thereof, in every county in which said board may believe the valuation to be too high such per centum as will reduce the same to its proper [proportionate] value. Town and city lots shall be equalized in the same manner as herein provided for equalizing lands, and, at the option of said board, may be combined and equalized with lands.

Second. Equalize the assessment of personal property by adding to the aggregate assessed value of any class of personal

property of every county in which they believe such valuation to be too low such rate per centum as will raise the same to its proper proportionate value and by deducting from the aggregate assessed value of any class of personal property, in every county in which said board may believe the valuation to be too high, such per centum as will reduce the same to its proper proportionate value.

Third. Said board, in making such equalization, may add to or deduct from the aggregate assessed valuation of lands, town or city lots or any other class of personal property throughout the state, such per centum as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several counties, or throughout the state, the rate per cent of addition or deduction shall be even and not fractional.

Fourth. The secretary of state shall keep a full record of the proceedings of the board and the same shall be published in the annual report of the auditor of the state.

Fifth. Said board shall decide upon the rate of the state tax to be levied for the current year, to defray the ordinary estimated expenses of the state for such year, and to pay any deficiency that may remain unpaid of the ordinary expenses of the preceding year, and also upon the rate of state tax to be levied to pay the annual interest and to provide for a sinking fund for the payment of the principal of the public debt of the state.

§ 48. STATE AUDITOR SHALL TRANSMIT TRANSCRIPT OF PROCEEDINGS TO EACH COUNTY AUDITOR.] On or before the fourth Monday in August, the auditor of the state shall transmit to each county auditor or county clerk a transcript of the proceedings of the board, specifying the per centum added to or deducted from, the valuation of each class of real and personal property in the several counties in the state, and the county auditor shall add to or deduct from each tract or lot of real property in his county, the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar, and shall also add to or deduct from, such class of personal property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization adding or deducting in manner as aforesaid any fractional sum so that the value of any separate class of personal property shall contain no fraction of a dollar.

§ 49. BOARD DIRECTED TO MAKE A LEVY OF AN ANNUAL STATE TAX—OTHER SPECIFIC LEVIES—RATE—HOW DETERMINED.] All county, township, town, city and school district taxes, except special taxes for local improvements in cities or villages or unless specially provided for by law, shall be levied or voted in specific amounts and the rate per centum shall be determined from the amount of property as equalized by the state board of equalization each year. The state tax shall be levied by the state board of equalization, and the rate of such tax shall be certified by the state auditor to each county auditor on or before the fourth Monday of August, annually. The county taxes shall be levied by the county commissioners at the time of their meeting in September of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five (5) per cent of the same. The taxes voted by incorporated cities, villages, townships or school districts, shall be certified by the proper authorities to the county auditor on or before the twentieth day of July in each year. The rate per centum of all taxes except the state tax, shall be calculated and fixed by the county auditor according to the limitations hereinafter prescribed: *Provided*, That if any county, city, town or school district shall return a greater amount than the prescribed rate will raise, then the county auditor shall only extend such amount of tax as the limited rate will produce.

§ 50. ASSESSMENT OF RAILROAD PROPERTY.] All property, real and personal, belonging to any railway company in this state and necessarily used in the operation of its line or lines of railway in this state, shall be assessed for purposes of taxation by the state board of assessment and equalization, and not otherwise: *Provided*, nothing in this act shall be so construed as to prevent the local assessment and the taxation of all property of such company, both real and personal as is not actually and necessarily used in the operation and maintenance of its lines of railway.

§ 51. ASSESSMENT—WHEN TO BE MADE.] It shall be the duty of the state board of assessment and equalization, on the third Monday of July, 1891, and every year thereafter, to assess all the property of every railroad company in this state used in the operation and maintenance of their respective railways.

§ 52. STATEMENT TO BE FURNISHED TO BOARD OF ASSESSMENT.] It shall be the duty of the president, secretary or other accounting officer thereto duly authorized, of any railroad company owning, leasing or operating any railroad within this state, to furnish said board on or before the first day of June,

1891, and each year thereafter, a statement signed and sworn to by such officers, embracing and showing for the year ending April 30th, preceding:

First. The whole number of miles of main line or lines and branches thereof, owned, operated or leased in the state by the railroad company making the return, and the value thereof per mile.

Second. The number of miles of main line or lines and branches thereof, owned, operated or leased by such company, and the number of miles of sidetrack, and the value thereof per mile, and the number and character of the buildings located in each county in the state and the value thereof.

Third. Also a statement of the number of engines, passenger, mail, express, baggage, freight and other cars owned by said company and used in operating such railroad in this state; and on roads having various lines and branches within the state, the returns shall show the actual amount of rolling stock owned by said company, in use on each of said lines and branches within the state during the year for which the return is made.

Fourth. The gross and net earnings of the various lines and branches within this state during the year for which the return is made.

§ 53. DATE OF ASSESSMENT.] The valuation and assessment of the property of railroads by the said state board of assessment and equalization shall be made as of the first day of May, and shall be in the same ratio as that of the property of individuals, and such assessment by said board shall be made upon the main line or lines and branches thereof within the state, separately, and shall include the right of way, road bed, bridges, culverts, rolling stock, depots and depot grounds, yards, shops, buildings, gravel or sand beds, lands for snow protection, and all other property, real and personal, used in, and employed about, and incidental to the operation and maintenance of such railroads and branches thereof. In assessing said railroads and their equipment and property, the said state board of assessment and equalization shall take into consideration the gross and net earnings per mile for each division thereof, separately, for the year ending on the 30th day of April preceding, and any and all other matters necessary to enable them to make a just and equitable assessment of said railroad property, with respect to each county through which said railroad passes. *Provided*, That the state board of assessment and equalization shall give at least ten day's notice of the time and place of its meeting provided for in this act to the officer of any railroad, telegraph or telephone company, or other corporation, making a return of the property of their company to the said board for the purpose of assessment and taxation, of every increase made

by said board in the valuation of any of the property returned, as aforesaid, for the purposes aforesaid, or of any addition made to said returns, and said companies shall have the right to appear and be heard before said board in all matters relating to the assessment of the property of said company.

§ 54. STATEMENT FURNISHED TO COUNTY BOARDS.] The state board of assessment and equalization shall transmit to the board of county commissioners of each county through which any of said roads or branches thereof run, a statement showing the length of main track of main line or lines, and branches thereof, within such county, and the assessed value per mile of said main line or lines and branches, as fixed by a pro rata distribution per mile of the assessed value of the whole property named in Sections 52 and 53, of this act, and said statement shall be entered upon the proper records of said several counties.

§ 55. DUTY OF COUNTY COMMISSIONERS.] It shall be the duty of the board of county commissioners of said counties, at their first meeting, after receiving such statement, to make and enter in the proper records an order, stating and declaring the length of the main track of road and branches and assessed value of such road and branches, lying within each city, incorporated town, township, and lesser taxing district, in each county through or into which said road or branches thereof run, as fixed by the distribution of the amount assessed by the state board of assessment and equalization, which aforesaid amount shall constitute the taxable value of said property for all taxable purposes, and shall transmit a copy of said order to the city council or trustees, of each city or incorporated town or township, and the proper officer of each lesser taxing district, and also to said railway company.

§ 56. RAILROAD PROPERTY TAXABLE PRO RATA WITH OTHER PROPERTY.] All such railroad property so assessed by said state board of assessment and equalization shall be taxable upon said assessment at the same rates and for the same purposes as the property of individuals within such counties, cities, incorporated towns, townships, and lesser taxing districts. The proper officer of each taxing district shall certify to the county auditor, the several rates of taxes to be levied in said district, and the said county auditor shall extend the taxes against said assessment in a book to be called the "Railroad Tax Book," and shall transmit a copy of the rates and taxes so extended to each railroad company.

§ 57. DUTY OF COUNTY AUDITOR AND TREASURER.] The county auditor shall make and deliver a duplicate of said railroad tax book to the county treasurer, and the county treasurer shall be charged with the collection of said railroad taxes in the same manner and under the same provisions and restrictions that are imposed upon such treasurer in the collection of

the taxes of individuals; and the amount due each city, incorporated town, township or lesser taxing district, shall be paid over when collected by the county treasurer, to such city, town, township or lesser taxing district.

§ 58. GENERAL LAW APPLICABLE.] All laws in force relating to the enforcement of the payment of delinquent taxes, shall be applicable to all taxes levied under the provisions of this act, and whenever any taxes levied under the provisions of this act shall become delinquent, the county treasurer having control of such delinquent taxes shall proceed to collect the same in the same manner, and with the same right and power, as a sheriff under execution except that no process shall be necessary to authorize him to sell engines, cars or any other rolling stock, for the collection of said taxes.

§ 59. RAILROAD COMPANIES TO FURNISH MAPS TO COUNTY AUDITOR.] Every railroad company shall file with the county auditor of each county, through or into which its line or lines of railroad run, a map showing the right of way, depot grounds, yard room, gravel or sand beds, and lands for snow protection, and lands otherwise used by it in the maintenance and operation of its railway at the date of filing such map, showing lots or parts of lots and blocks in cities and towns and the number of acres in each government subdivision, and it shall be the duty of the county auditor to provide for the exception from assessment by the local assessor, all such right of way, depot grounds, yard room, gravel or sand beds, and lands for snow protection, or lands otherwise used in the operation and maintenance of its railway. It shall be the duty of the county register of deeds to notify such county auditor of any deed to any railway company for the right of way, depot grounds, yard room, gravel or sand beds, or lands for snow protection, etc., etc., that may be filed in his office for record, so that the same may be entered by such county auditor on said map for the purpose above mentioned.

§ 60. WHEN COMPANY FAILS TO MAKE STATEMENT.] In case the proper officer of any railroad company shall fail to make the statement under oath herein named, the state board of assessment and equalization shall proceed to assess such railroad property on the best information obtainable, and shall add twenty five per cent to the assessable value thereof.

§ 61. TELEGRAPH AND TELEPHONE COMPANIES.] It shall be the duty of the president, secretary, general manager or superintendent of every telegraph or telephone company doing business in this state to furnish to the state auditor on the first day of July, 1891, and of each year thereafter, a statement under oath in such form as the auditor may prescribe, showing the following facts:

First. The total number of miles owned, operated or

passed within the state, the number of miles in each separate line or division thereof, together with the number of separate wires thereon, and stating the counties through which the same extend or in which such company does business.

Second. The number of miles in each county and the number of stations and number of telegraph or telephone instruments used in each county.

Third. The average number of poles per mile used in constructing said lines, the value of said wires, poles, instruments and all other property owned by it in the state.

Fourth. The number of offices maintained by the company in this state and the total gross and net receipts of all said offices for the year ending April 30, preceding the making of said statement.

Such statement shall be made according to such forms and instructions as may be prescribed by the state auditor and with reference to lines owned and operated on the first day of May of the year for which the return is made.

§ 62. STATE AUDITOR'S DUTY.] If said statement shall not be received by said auditor by the first Monday of August of each year, he shall thereupon proceed to obtain the facts and information aforesaid in any manner that may appear most likely to secure the same correctly. The statement so filed or the information so obtained shall be laid before the state board of assessment and equalization, which board shall review such statement or information, and may change the valuation given or add to said statement any property omitted therefrom, and said board shall proceed to levy a tax on said property, which tax shall be equal to the average amount of state, county, school and municipal taxes levied upon other property for the preceding year, and the auditor shall notify each company of the amount of taxes so levied. Each telegraph and telephone company so assessed shall, on or before the first day of March in each year, pay to the state treasurer the amount of tax so levied on its property, which shall be in lieu of all other taxes. If any telegraph or telephone company shall fail to make and file said statement each year as herein provided, or shall file a false statement it shall forfeit to the state not less than five hundred dollars nor more than five thousand dollars, to be recovered in the name of the state in any court of competent jurisdiction. The state board of equalization shall cause a statement to be transmitted to the county auditor of each county in which any lines or office or other property of any telegraph or telephone company is situated, showing the amount or proportion of such property and value thereof situated in such county and the state treasurer shall remit to the treasurer of each of such counties their proportionate share of such tax,

and said county treasurer shall apportion the same as provide in other cases.

§ 63. TELEGRAPH AND TELEPHONE PROPERTY ASSESSED—WHEN.] It shall be the duty of the state board of assessment and equalization on the fourth Monday of July, 1891, and each year thereafter to assess all the property of every telegraph and telephone company doing business in this state and used in the operation and maintenance of its business, and in so doing they shall assess the same as of the first day of May of said year and may also take into consideration all the facts, data and information contained in the statement made by said company and any and all matters necessary to enable them to make a just and equitable assessment of said property in the same ratio as the property of individuals.

§ 64. ASSESSMENT ROLL—WHAT TO CONTAIN.] In the abstracts of the assessment roll forwarded by the various county auditors of the state each year they shall include the rate of taxation for county, school and municipal purposes in such county.

§ 65. EXPRESS AND SLEEPING CAR COMPANIES—HOW ASSESSED.] Every express company and every sleeping car company doing business in this state must transmit to the auditor of the state a statement of its business done within this state for the year ending on the thirtieth day of April preceding which statement must be furnished on or before the first day of July of each year and shall contain the following items:

First. The total number of employes engaged by such company within the state and the number thereof in each county.

Second. The total number of offices maintained by it within the state and the number thereof in each county; the value of all office furniture, fixtures and real estate owned by it within this state.

Third. The number of miles of railroad over which such express or sleeping car company conducts its business within the state and the number of miles thereof in each county.

Fourth. The total number of express cars or sleeping coaches owned by such company and used within the state and the number of such express or sleeping cars leased and controlled, but not owned by such company, and used within this state or operated under lease or contract in any manner.

Fifth. The gross earnings of the total business of such company transacted within this state for the year ending April 30th preceding and the value of all the property of such company used in this state.

§ 66. STATE BOARD OF ASSESSMENT AND EQUALIZATION TO ASSESS.] If the statement aforesaid shall not be received by the said auditor by the first day of August of each year, he

shall thereupon proceed to obtain the facts and information resaid in any manner that may appear most likely to set the same correctly. Said property shall be assessed by the state board of assessment and equalization and not otherwise. Said board shall value and assess said property as of the first day of May of said year and in assessing said property shall take into consideration the gross earnings of said company within the state for the year ending on the 30th day of April preceding, and any and all other matters necessary to enable them to make a just and equitable assessment of said property, in the same ratio as the property of individuals. The statements so filed or the information so obtained shall be laid before the state board of assessment and equalization, which board shall review said statement or information and may change the valuation given or add to said statement any property omitted therefrom, and said board shall levy a tax on said property, which tax shall be equal to the average assessment of the state, county, school and municipal taxes levied upon other property for the preceding year, and the auditor shall notify the company of the amount of taxes so levied.

§ 67. PAYMENT OF TAX—WHEN MADE.] Each express and sleeping car company so assessed shall on or before the first day of March of each year, pay to the state treasurer the amount of tax so levied on its property for the year preceding, which shall be in lieu of all other taxes.

§ 68. FORFEIT IN EVENT OF FAILURE TO FILE STATEMENT.] If any express or sleeping car company aforesaid, shall fail to make and file said statement, it shall forfeit to the state not less than five hundred nor more than five thousand dollars, to be recovered in the name of the state in any court of competent jurisdiction.

§ 69. WHEN ASSESSED.] It shall be the duty of the state board of assessment and equalization on the first Monday of July, 1891, and each year thereafter, to assess all the property of every express and sleeping car company doing business in this state, and used in the operation and maintenance of its business aforesaid.

§ 70. HOW APPORTIONED.] The state treasurer shall apportion the amount of taxes received under the provisions of this act, between the state and the various counties in which such company is doing business, as herein provided, the amount to which each is entitled shall be determined by said state board of equalization.

§ 71. COUNTY TAX—WHEN LEVIED.] On the first Monday of September of each year, the board of county commissioners shall meet at the county seat to levy the necessary taxes for the current fiscal year, and they may levy the taxes at any time after the said first Monday of September if the statement from

the state board of assessment and equalization has not been received, but such levy must not be postponed for more than ten days, and they shall levy the taxes as herein directed.

§ 72. STATE TAX—TWO MILLS.] The rate of the general state tax shall be as directed by the state board of equalization but in case the statement of the levy of such taxes as herein directed has not been received by the county auditor within ten days after the said first Monday in September, then the said board of county commissioners shall levy the general state tax at the rate of two mills on the dollar of valuation.

§ 73. LIMITATION OF TAXES.] The rate of the levy for ordinary state purposes shall not be to exceed two mills on the dollar; for ordinary county revenue, including support of the poor, not more than six mills on the dollar; for roads and bridges a bridge tax not to exceed two mills on the dollar, and a road tax not to exceed four mills on the dollar; for county sinking fund such rate as in the estimation of the board of county commissioners will pay one year's interest on all outstanding debts of the county with not to exceed fifteen per cent on the principal. In counties or parts of counties not organized into civil townships there shall be levied a poll tax of one dollar and fifty cents or one day's labor on the highways on every male person between the ages of twenty-one and fifty years. There shall also be levied a tax of one dollar on each elector within the county and a tax of not exceeding two mills on the dollar on all taxable property for the support of the common schools within the county. The levy for school townships, school districts, cities, towns, villages and townships shall be such as is now or may be hereafter provided by law governing such taxing districts.

§ 74. COUNTY AUDITOR TO MAKE OUT TAX LIST.] As soon as practicable after the taxes are levied, the county auditor shall make out a tax list containing:

First. A list in alphabetical order of all persons and bodies corporate, in whose name any property other than real estate has been listed, with the amount or valuation thereof in a separate column opposite the name and the several species of taxes and the total of all the taxes shall be carried out in separate columns opposite the valuation.

Second. A list of all the taxable lands in the county (not including town lots) in numerical order, commencing with the lowest numbered section, in the lowest numbered township, in the lowest numbered range in the county, and ending with the highest numbered section, township and range, with the names of the persons or parties in whose name each subdivision was listed opposite each subdivision on the margin or in a column provided for that purpose, with valuation of each tract, and several species of taxes carried out in separate columns opposite

each tract in the same manner as provided in the alphabetical list of names.

Third. A list of the city or town lots in each city or town in the county, commencing with the lowest number and ending with the highest number in each city or town with the name of the person or party listing each lot or part of lot opposite the same, and the valuation and several species of taxes and total taxes carried out in separate columns in the same manner as hereinbefore provided in respect to personal property and lands. *Provided*, That in all cases, the state, county and all other taxes that are uniform throughout the county may be consolidated and entered in one column which shall be called "consolidated tax" and the rate per cent. of the various taxes so consolidated shall be scheduled on the first page of each tax list and upon each tax receipt. The county auditor shall foot each and every column of taxes and prove the same, so that they shall aggregate the same as the footing of the column of total taxes and shall recapitulate the same. Such recapitulation shall show the total amount of taxes for each specific purpose for which a levy has been made and the aggregate of such taxes upon lands, town lots and personal property separately.

§ 75. TAX LIST TO BE IN DUPLICATE.] The tax list when completed shall be kept by the county auditor as the property of the county. The auditor shall also prepare a duplicate of the tax list of his county and deliver the same to the county treasurer on or before the first day of December, following the date of the levy for the current year, and the county treasurer shall immediately upon receipt of such duplicate tax list, specify in a column for that purpose the years for which any of the real estate described therein has been sold for taxes and not redeemed.

§ 76. AUDITOR'S DUTY IN REGARD TO UNPAID TAXES.] It shall be the duty of the county auditor, in preparing the tax list and duplicate, to enter in a separate column in such list, against the description of each tract of real estate, the amount of all unpaid taxes thereon, specifying the year or years for which such taxes are due and the name of the person against whom such personal taxes are charged, and also to make a similar entry against each person owing delinquent personal taxes.

§ 77. ENTRY OF WARRANT TO COLLECT.] An entry is required to be made upon the tax list and its duplicate, showing what it is and for what county and year it is; and the county auditor shall attach to the lists his warrant under his hand and official seal in general terms requiring the treasurer to collect the taxes therein levied according to law; and no informality in the foregoing requirements shall render any proceedings for the collection of taxes illegal. The county auditor shall take the receipt of the county treasurer on delivering to him the du-

plicate tax list with the warrant thereto attached, and such lists shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

§ 78. AUDITOR TO CHARGE TREASURER WITH AMOUNT OF LISTS.] The county auditor shall, immediately after delivering said list to the treasurer, charge him with the amounts of said list as shown in the recapitulation thereof, in a book prepared for that purpose, and he shall also charge said treasurer in such tax list account with all additional assessments made after said lists are delivered and shall credit him with all amounts collected thereon, with all abatements ordered by the board of county commissioners, and with the uncollectable delinquent list when returned and approved by the board of commissioners.

§ 79. COUNTY TREASURER TO BE COLLECTOR OF TAXES.] The county treasurer shall be the receiver and collector of all taxes extended upon the tax list of the county, and all delinquent taxes, whether levied for state, county, city, town, school, poor, bridge, road or other purposes, anything in the charter of any city or town to the contrary notwithstanding; and also all fines, forfeitures or penalties received by any person or officer for the use of his county, and he shall proceed to collect the same according to law, and place the same when collected to the credit of the proper funds; but this provision shall not be construed so as to include any fines or penalties accruing to any municipal corporation for the violation of its ordinances and which were recovered before any city justice.

§ 80. WARRANTS RECEIVABLE TO FUND DRAWN ON.] State warrants are receivable for the amount payable into the state treasury on account of the ordinary state tax; and county warrants are receivable at the treasury of the proper county for the amount of county tax payable into the county treasury, except when otherwise provided by law; and city warrants shall be received for city taxes; and school warrants shall be received for school taxes; and civil township warrants shall be received for civil township taxes; and road and bridge warrants shall be received for road and bridge taxes in the districts or townships where such warrants are issued.

§ 81. DUPLICATE RECEIPTS MADE OUT.] Whenever any taxes are paid to the county treasurer he shall make out duplicate receipts for the same, which duplicate receipts shall correspond in number, date and amount and in every respect shall be precise copies of each other, one of which shall be delivered to the person paying such taxes, and the other shall, within one week, be filed by the treasurer with the auditor, and such duplicate receipt shall specify the land or other property on which such tax was assessed according to its description on the tax duplicate, or in some sufficient manner, and shall also specify

the amount of each separate and distinct fund in separate or distinct lines or columns as extended upon the tax duplicate, and whether the said separate or distinct funds were paid in cash, state, county, or school warrants or road orders, or supervisor's receipts as the case may be. Such duplicate receipts shall also specify the years for which any of the real estate described therein has been sold for taxes and not redeemed.

§ 82. TREASURERS COLLECT OLDEST TAX FIRST.] The county treasurer in collecting taxes, shall collect the oldest tax first, and shall in no case issue his receipt for the current year until all prior taxes are paid, except in cases where the taxpayer makes and files with the county treasurer his affidavit stating that he has a legal defense to the collection of such former tax, in which case the treasurer shall note in any subsequent receipt the making of such affidavit stating the amount and year covered thereby.

§ 83. RECEIPT EVIDENCE PAYMENT OF PRIOR TAXES.] The possession of a tax receipt upon property so listed, issued by the county treasurer under the provisions of this and the preceding section, shall be conclusive evidence that all prior taxes which are chargeable against the lands, in such receipt described, or in case of a personalty tax against the person named in such receipt, have been fully paid and shall be a bar to the collection of any prior tax thereon, unless otherwise stated in the receipt.

§ 84. AUDITOR TO AUDIT DUPLICATE.] It shall be the duty of the auditor, on receiving any duplicate tax receipt from the treasurer, forthwith to examine the same, and compare it with the tax list in his possession, and see if the total amount of taxes and the several amounts of the different funds are correctly entered and set forth in such receipt, and in case it shall appear that the treasurer has not collected the full amount of taxes and interest which, according to the tax list and the terms of the receipt, he should have collected, then the auditor shall forthwith charge the treasurer with the amount such receipt falls short of the true amount, and the treasurer shall be liable on his official bond to account for and pay over the same.

§ 85. RECEIPTS NUMBERED CONSECUTIVELY.] All tax receipts issued by the county treasurer shall be bound in books of convenient size and numbered consecutively, commencing with number one on the first receipt issued for the taxes of any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt, nor shall more than one series of numbers be used for any one year's taxes, but a separate and distinct series of numbers of receipts shall be kept and issued for the taxes of each year for which the same have been levied and assessed in this state.

§ 86. WHAT WRITTEN ON DUPLICATE.] Whenever any taxes are paid, the treasurer shall write on the tax duplicate, opposite the description of the real estate or the property whereon the same were levied, the word "paid," together with the date of such payment and the name of the person paying the same, and the county auditor, on receiving the duplicate receipt, shall forthwith make the same entries on the tax list in his possession.

§ 87. TREASURER MUST KEEP CASH BOOK.] The county treasurer is required to keep a cash book, in which he shall enter an account of all money by him received, specifying in proper columns provided for that purpose the date of the payment, the number of the receipt issued therefor, by whom paid, and on account of what fund or funds the same was paid, whether state, county, school, road, sinking fund, or otherwise, and the amount paid in warrants, orders or receipts, each in a separate column, and the total amount for which the receipt was given in another column; and the treasurer shall keep his account of money received for and on account of taxes separate and distinct from moneys received on any other account, and shall also keep his account of money received for and on account of taxes levied and assessed for any one year separate and distinct from those levied and assessed for any other year, and all entries in said cash book of money received for taxes shall be made consecutively and in the numerical order of the receipts issued therefor.

§ 88. MONEY FROM LICENSES, FINES, &C.] Whenever the treasurer receives any money, warrants or orders on account of licenses, fines or any other account except taxes charged on the tax duplicate, he shall make out and deliver to the person paying the same duplicate receipts, one of which receipts said person shall forthwith deposit with the county auditor, in order that the treasurer may be charged with the amount thereof. The treasurer shall then enter the same in his cash book provided for in the preceding section, as in case of money received for taxes, but in a separate and distinct series of numbers of receipts issued therefor; and no person shall receive such license or be discharged from obligation by reason of such fine or account until he shall have so delivered such duplicate receipt to the county auditor.

§ 89. TREASURER'S ACCOUNT BOOK.] The treasurer shall keep an account current in which he shall charge himself with all amounts received whether in money or warrants as shown by his cash book, and credit himself with all disbursements by him made as shown by his warrant or voucher record. He shall also on the first day of each month credit each and every fund with the amount collected for said fund during the preceding month, and shall charge each fund with all amounts paid out on

account of said fund and with his commissions for the collections made therefor. He shall also at the same time balance each and every account so as to show the total cash on hand and the balance remaining to the credit of each and every fund.

§ 90. AUDITOR TO KEEP DUPLICATE BOOKS.] The county auditor is required to keep duplicates of the treasurer's cash book and ledger and make all entries therein in the manner and form herein required of the county treasurer and the method of bookkeeping and accounting shall be uniform throughout the state.

§ 91. MONTHLY SETTLEMENTS REQUIRED.] On the first day of each month the county treasurer shall turn over to the county auditor, all vouchers for disbursements made by him during the preceding month, taking the auditor's receipt therefor, and the auditor shall forthwith charge the proper funds therewith, and within ten days thereafter the auditor and treasurer shall compare their cash book and ledger balances, and the auditor shall immediately thereafter on the application of any township, city, village or school treasurer deliver to such treasurer an order on the county treasurer for the amount due such township, city, village, school district or school township. *Provided*, That the person so applying shall file with the auditor a certificate from the proper officer showing that such person is duly elected or appointed treasurer and has given bond as required by law.

§ 92. WHEN TREASURER SHALL PAY OVER FUNDS COLLECTED.] The county treasurer shall immediately after each settlement pay over to the treasurer of any municipal corporation or any organized township, or any body politic, on the order of the county auditor, all moneys received by him arising from taxes levied and collected, belonging to such municipal corporation or organized township, body politic or school township or district, and shall require said treasurer to whom such payment is made to receipt upon the back of said order for the same.

§ 93. ERRORS AND OMISSIONS CORRECTED.] If on the assessment roll or tax list there be any error in the name of the person assessed or taxed, the name may be changed and the tax collected from the person intended, if he be taxable and can be identified by the assessor or treasurer; and when the treasurer, after the tax list is committed to him, shall ascertain that any land or other property is omitted he shall report the fact to the county auditor, who upon being satisfied thereof shall enter the same upon his assessment roll and assess the value, and the treasurer shall enter it upon the tax list and collect the tax as in other cases.

§ 94. TREASURER MUST KEEP WARRANT BOOK.] Each county treasurer shall keep a book called the "Warrant Book,"

which shall be a record in numerical order of vouchers for all disbursements made by him for state, county, township, city, school, redemption and all other purposes, including warrants or orders received in payment of taxes, which shall specify the date of payment, the person to whom paid; the number and date of warrant, the principal, interest, and total amount paid. He shall keep an account of warrants paid in cash and received in payment of taxes in separate columns. Each voucher for state, county, school, apportionment, city, redemption, and other purposes shall be entered in a separate column. *Provided*, That school, civil township, or city warrants or orders received in payment of school, township or city taxes shall be held as cash, and turned over to the treasurer of such municipal corporation, township or district in payment of warrants drawn by the auditor for balances due them as provided in this act. Said warrant book shall be footed and balanced on the first of each month, and the disbursements posted to the debit of the proper fund.

§ 95. NO DEMAND FOR TAXES NECESSARY.] No demand for taxes shall be necessary, but it shall be the duty of every person subject to taxation under this law to attend at the treasurer's office at the county seat and pay his taxes; and if any person neglect so to attend and pay his taxes until after the first day of July in the year next succeeding the levying of the taxes, the treasurer is directed and required to collect the same by distress and sale. *Provided*, That in case any person having only personal property assessed, and upon which the taxes are unpaid, shall, in the opinion of the treasurer, be about to move out of the county, it shall be the duty of the treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands. *Provided, however*, That in case any person owing taxes removes from any county in this state, the county treasurer shall forward such tax claim to the treasurer of the county to which such person has removed, and such taxes shall be collected by the county treasurer of the latter place as other taxes and returned to the proper county, less legal charges.

§ 96. TAXES ON REAL PROPERTY PERPETUAL LIEN.] Taxes upon real property are hereby made a perpetual lien thereupon against all persons and bodies corporate, except the United States and the State of South Dakota, and taxes due from any person upon personal property shall be a lien upon any real property owned by such person, or to which he may acquire title, but such lien shall not be enforced against such real estate until after the filing of the county treasurer's return, showing that he is unable to make such taxes out of the personal property of the person owing such tax as provided in this act. All taxes shall become due on the first day of December

of each year, and as between vendor and vendee shall become a lien upon real estate on and after said date. *Provided*, That nothing in this act shall be so construed as to prevent the county treasurer from advertising the amount due on personal property tax against the real estate which would be liable for the same if uncollected or uncollectable from personal property of the person assessed.

§ 97. TAXES DELINQUENT—WHEN.] On the first day of March of the year after which taxes shall have been assessed, all unpaid taxes shall become delinquent, and shall draw interest and penalty as follows: On the said first day of March one (1) per cent. shall attach and be added on the amount so remaining unpaid, and one (1) per cent a month thereafter until paid, to be added on the first day of each month which shall be added to the amount assessed, and collected by the county treasurer. *Providing*, That nothing in this section shall apply to the taxes of 1890.

§ 98. TREASURER SHALL LEVY ON AND SELL PERSONAL PROPERTY.] It shall be the duty of the treasurer on and after the first day of July in each year, to immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels belonging to the persons charged with such taxes, if found within the county, to pay the same, with accrued penalty and interest and all accruing costs, nothing except personalty absolutely exempt from execution shall be exempt from levy and sale hereunder, and shall immediately proceed to advertise the same in three public places in the county where such property is taken, stating the time when and the place where such property will be sold, and if the taxes for which such property is distrained and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than five days nor more than ten days after the taking of such property such treasurer or his deputy shall proceed to sell such property at public vendue or so much thereof as will be sufficient to pay said taxes, penalty and costs of such distress and sale. The treasurer may adjourn the sale from time to time for a period not to exceed three days, and shall adjourn once at least when there are no bidders, and in case of an adjournment he shall put up a notice thereof at the place where such sale was to have taken place. Any surplus remaining above the taxes, charges for keeping, fees for sale, fees for levying on the property, and mileage as allowed by law, shall be returned to the owner, and the treasurer shall on demand render an account in writing of the sale and charges. In case of failure to collect personal tax by voluntary payment of party assessed or by distress and sale, the treasurer must collect the

same by advertising and selling any real estate against which the tax is a lien.

§ 99. RESISTANCE TO TREASURER—PENALTY.] If the treasurer be resisted or impeded in the execution of his office, he may require any suitable person or persons to aid him therein, and if any such person refuse to aid he shall forfeit a sum not exceeding ten dollars, to be recovered by civil action in the name of and for the use of the county, and the person or persons resisting shall be liable as in the case of resisting the sheriff in the execution of civil process.

§ 100. UNCOLLECTABLE TAXES—LIST TO BE FILED.] If the county treasurer is unable for want of goods or chattels whereon to levy to collect by distress or otherwise the taxes or any part thereof which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, agent or factor, such treasurer shall file with the county auditor, on the first Monday of September following, a list of such taxes, with an affidavit of himself or deputy treasurer entrusted with the collection of such taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes and was unable to make or collect the same, and such other facts as he shall deem of importance to the county commissioners. The county auditor shall present said list to the county commissioners at their first meeting then or thereafter in session, and the said board shall examine such taxes so returnable, and if they are satisfied such taxes or any part thereof cannot be collected, then they shall instruct the county treasurer to place the same on a list of taxes that cannot be collected, in a book provided for that purpose, and said treasurer shall thereupon be released from further liability for a failure to collect such tax or taxes; but if said board are satisfied that said taxes or any part thereof can be collected they shall order the county treasurer to again proceed to collect the same, and it shall be his duty to again proceed to collect said taxes in the manner provided by law.

§ 101. FAILURE TO COLLECT—PENALTY.] If any county treasurer shall neglect or refuse to collect any tax assessed on personal property when the same is collectable, or to file the delinquent list and affidavit as herein set forth and provided, he shall be held liable in his next settlement with the county commissioners, and upon his official bond for the whole amount of such taxes uncollected, and the same shall be deducted from his salary or fees and applied to the several funds for which they were levied.

§ 102. FEES FOR DEMANDING AND SELLING.] County treasurers shall be allowed for making demand for such taxes, where no levy is made on property, five cents per mile for each

mile necessarily and actually traveled, and when levy is made, for each and every levy he or his deputy shall make on personal property for the satisfaction of a tax or taxes, he shall receive a fee of one dollar, and ten cents for every mile necessarily and actually traveled by him, to be collected out of the property levied on by him, and for the sale of personal property so levied on by him he shall receive a fee of one dollar, to be collected with the charges for keeping, out of the property so levied upon, any and all of the fees provided for in this section not made out of the sale of property, shall be paid to the treasurer or his deputy by the person or corporation from whom such tax is due. *Provided, however,* that the fees herein provided for shall not be accounted for by the county treasurer to the county, nor shall he be compelled to pay the same into the special salary fund of the county, any law to the contrary notwithstanding.

§ 103. LOCAL TAXES TO BE ADDED] Whenever in the collection of any district, town, city or local taxes which may have been levied according to law, the collector is not able to make the tax by distress and sale of personal property, and real estate is to be sold for the same, it shall be the duty of the collector of the tax to send such delinquent list to the county treasurer on or before the first day of July of each year and the county treasurer shall receive the delinquent list and advertise the same at the same time he advertises the sale of real estate for delinquent taxes as by this act provided, by adding the amount of such delinquent district, town, city or local tax to the amount of delinquent state, county and other taxes, and shall sell such lands for the purpose of paying all such delinquent taxes as hereinafter directed, and shall credit the proper district, town, city or locality for the amount of taxes so collected.

§ 104. NOTICE OF SALE FOR TAXES.] The treasurer shall give notice of the sale of real property by publication thereof once a week for three consecutive weeks, commencing the first week in October preceding the sale, in a newspaper in his county, if there be one; and if there be no newspaper published in his county he shall give notice by written or printed notice, posted at the door of the court house or building in which courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale. Such notice shall contain a notification that all lands on which the taxes of the preceding year or years remain unpaid will be sold and the time and place of the sale; and said notice must contain a list of the lands to be sold and the amount of taxes both real and personal, due. The county treasurer shall charge and collect in addition to the taxes and interest and penalty the sum of ten cents on each tract of real property and

on each town lot advertised for sale, which sum shall be paid into the county treasury and the county shall pay the costs of publication, but in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising.

§ 105. WHEN LANDS OFFERED FOR SALE.] On the first Monday of November in each year, between the hours of nine o'clock A. M. and four o'clock P. M., the treasurer is directed to offer at public sale, at the court house or at the place of holding courts in his county, or at the treasurer's office where by law the taxes are made payable, all lands, town lots or other real property which shall be liable for taxes of any description for the preceding year or years, and which shall remain due and unpaid, and he may adjourn the sale from day to day until all the lands, lots or other real property have been offered, and no taxable property shall be exempt from levy and sale for taxes.

816 Nov. 30
120 Nov 118
148 Nov 16
§ 106. METHOD OF SALE.] Before making said sale of lands on which the taxes have not been paid, the treasurer shall offer all lands (not including town lots) so advertised for sale in bulk, he shall then offer all town lots subject to sale in bulk, and in case any person, persons or corporations shall bid the full amount of the taxes, penalty, interests and costs due on all of such lands or town lots, stating in the bid the lowest rate of interest per annum at which the bidder will pay the taxes assessed and due against the lands and lots, then such treasurer shall sell to the person, persons or corporation so offering the best bid, such lands or town lots as aforesaid and shall issue certificates of sale to such purchaser. In case of a failure to receive a bid for the lands in bulk or for the lots in bulk, the treasurer shall proceed to offer each separate tract for sale in the numerical order in which they appear on the tax list, and receive bids thereupon in the same manner as herein provided for bids in bulks, but in neither case shall the rate of interest exceed the rate named in the bid, and the bid offered on such lands or lots in bulk or separately, at the lowest rate of interest per annum, shall be considered the best bid. *Provided, however.* That no higher rate of interest shall be allowed than fifteen (15) per cent and no tract of land nor town lot shall be sold under these provisions for less than the entire tract or lot.

§ 107. BIDDERS FAILING TO PAY—WHAT.] Should any person so bidding fail to pay the amount due, the treasurer may again offer land or town lots for sale if the sale has not closed, and if it has closed he may again advertise it specially and by description by one written or printed notice posted for two weeks on the door of the court house or place where courts are usually held, after which it may be sold at public sale; or the treasurer may recover the amount by civil action, brought in the name of the county in which the sale was held.

§ 108. RETURNS OF SALE.] On or before the first Mon-

day of December following the sale of real property, the treasurer is required to file in the office of the auditor of his county, a return of his sale of land (retaining a copy in his office), showing the lands sold, the names of the purchasers and the sums paid by them, and also a copy of the notice of the sale with a certificate of the advertisement verified by an affidavit, and such certificate shall be evidence of the regularity of the proceedings. The description of the real estate in such returns shall be entered in the same numerical order as required in the tax list.

§ 109. CERTIFICATE GIVEN PURCHASER.] The purchaser of any tract of land sold by the county treasurer for taxes will be entitled to a certificate, describing the land so purchased, the sum paid, and stating the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and said certificate shall be signed by the treasurer in his official capacity. Any assignment of such certificate must be acknowledged before some officer having power to take acknowledgments of deeds, and shall be presumptive evidence of the regularity of all prior proceedings. The purchaser acquires the lien of the tax on the land, and if he subsequently pay any taxes levied on the same whether levied for any year or years previous or subsequent to such sale, he shall have the same lien for them and may add them to the amount paid by him in the purchase, and the treasurer shall make out a tax receipt and duplicate for the taxes on the real estate mentioned in such certificate the same as in other cases, and shall write thereon, "sold for tax at public sale."

§ 110. FEE FOR CERTIFICATES AND DEED.] The treasurer is authorized to demand and collect fifty cents for each certificate and one dollar for each deed made by him on such sale and the fee for the notary public or other officer acknowledging the deed or certificate, but any number of parcels of land may be, if bought by one person, included in one deed or certificate, as may be desired by the purchaser, and whenever the treasurer makes a deed to any land sold for taxes he shall make an entry thereof in the sale book opposite the description of the land conveyed.

§ 111. PRIVATE SALE ALLOWED—WHEN.] After the tax sale shall have closed, and after the treasurer has made his return thereto to the county auditor, if any real estate remains unsold for want of bidders therefor, the said treasurer is authorized and required to sell the same at private sale at his office to any person who will pay the amount of taxes, penalty and costs thereon for the same, and to deliver to purchaser a certificate as provided in Section 109, and to make out duplicate receipts for the taxes on such real estate, and deliver one to the purchaser and the other to the county auditor as hereinbefore pro-

vided, with the additional statement inserted in the certificate that such lands have been offered at public sale for taxes but not sold for want of bidders, on which he is required to write "sold for taxes at private sale," and the treasurer is further authorized and required to sell as aforesaid all real estate in his county on which taxes remain unpaid and delinquent for any previous year or years.

§ 112. ERRONEOUS SALES CORRECTED.] When by mistake or wrongful act of the treasurer, land has been sold on which no tax was due at the time, the county is to save the purchaser harmless by paying him the amount of principal and interest at the rate of twelve per cent. per annum, from the date of sale, and the treasurer and his sureties shall be liable for the amount to the county on his bond, or the purchaser may recover the same directly from the treasurer. Where, after a tract of land has been listed and assessed, the entry becomes cancelled by the United States' government, and a sale thereof for taxes shall have been made by the treasurer by mistake to an innocent purchaser, the county shall repay to such purchaser the amount paid together with twelve per cent interest per annum.

§ 113. COUNTY TREASURER MAY PURCHASE—WHEN.] The county treasurer of each county within this state is hereby authorized at all tax sales hereafter made under the laws of this state, in case there are no other bidders offering the amount due, to bid off all or any real estate offered at said sale for the amount of taxes, penalty, interests and costs due and unpaid thereon, in the name of the county in which the sale takes place, said county acquiring all the rights both legal and equitable that any purchaser could acquire by reason of said purchase.

43 md. 262 § 114. CERTIFICATE OF PURCHASE ISSUED TO COUNTY—NO COSTS PAID UNTIL REDEMPTION.] Whenever the county treasurer of any county shall bid off any real estate in the name of his county, he shall make out a certificate of purchase to said county in the same manner as required if sale had been made to any other person, which certificate shall be retained by the treasurer as provided by law, but no tax receipt shall be issued and no amount due the state or any other fund or costs or treasurer's commission shall be paid by the county until redemption has been made from such sale or the time for redemption has expired or until the interest of the county has been assigned. The certificate or certificates so issued to the county shall bear interest at the rate of twelve (12) per cent per annum.

§ 115. REDEMPTION BY OWNER FROM COUNTY.] In case the owner of said real estate, or any person having any legal or equitable interest therein is desirous of redeeming said real

estate from said sale to the county, he shall have the right so to do at any time before tax deed shall be issued, by paying the amount of taxes with penalty and interest up to the date of redemption, and the costs of advertising and selling the same, and upon the payment thereof the said treasurer is hereby required to give the person so redeeming a certificate of redemption, and he shall at the same time issue a tax receipt and duplicate for said taxes, penalty, interest and costs which shall be entered upon his cash book as other tax receipts. He shall also mark upon the tax duplicate in his office opposite the description of said real estate the word "redeemed" with date and name of person by whom redeemed.

§ 116. TREASURER MAY SELL CERTIFICATE.] If any person is desirous of purchasing the interest of said county in said real estate, acquired by reason of said county treasurer buying the same for the county, he may do so by paying to the said treasurer the amount of the taxes, penalty, interest and costs of sale and transfer up to the date he so pays, and thereupon the said treasurer shall issue a tax receipt and duplicate as provided in the preceding section and shall assign and deliver to said purchaser the certificate of purchase held by said county for said real estate, which assignment and transfer shall convey unto said purchaser all rights of said county, both legal and equitable, in and to said real estate as much so as if he had been the original purchaser at said tax sale.

§ 117. TREASURER TO DEED TO COUNTY.] All pieces or parcels of real property bid in by the county under the provisions of this act and not redeemed or assigned within two years from the date of sale, shall, upon the treasurer giving the notice required by law, become the absolute property of the county, and upon payment by said county of the taxes due the various funds upon said sale, the treasurer shall issue a tax deed therefor to the county in the same manner as to individual purchasers, and the county may sell and convey said real estate in such manner as is now or may hereafter be provided by law for selling of real estate, and the proceeds of such sale shall be placed to the credit of the county general fund.

§ 118. REDEMPTION OF LANDS SOLD.] The owner or occupant of any land sold for taxes, or any other person may redeem the same at any time within two years after the date of such sale, or at any time before the execution of a deed of conveyance thereof by the county treasurer, by paying the treasurer for the use of the purchaser, his heirs or assigns, the sum mentioned in the certificate, and interest thereon at the rate at which the land was sold, from the date of purchase, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to said sale, and interest thereon at the same rate from the date of such payment, and

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the treasurer shall enter a memorandum of the redemption in the list of sales, and give a receipt therefor to the person redeeming the same, and file a duplicate of the same with the county auditor as in other cases, and hold the money paid to the order of the purchaser, his agent or attorney. *Provided*, That infants, idiots and insane persons may redeem any land belonging to them, sold for taxes, within one year after the expiration of such disabilities; and, *Provided, further*, That when the owner or occupant of any land which has been sold for taxes, and who desires to redeem the same, shall not demand a receipt or certificate of redemption from the treasurer, the return of the certificate of purchase for cancellation shall operate as a release of all the claims to the tract or lot described therein, under or by virtue of the purchase, and the county treasurer upon receiving such certificate of purchase shall mark on the tax sale record opposite the description of the property for which said certificate of purchase has been issued, "sale cancelled by return of certificate." No fee shall be charged for services provided for in this section.

§ 119. UNDIVIDED LANDS.] Any person claiming a part of any land sold for taxes, whether the part be divided or undivided, may redeem the same on paying the purchase money on such portion or proportion as he shall claim, together with the interest and subsequent taxes, and a statement of the portion redeemed shall be endorsed on the receipt or certificate of redemption and entered up in the treasurer's tax sale record.

§ 120. PARTIAL REDEMPTION.] In every case of partial redemption, pursuant to the last section, the quantity sold shall be redeemed in proportion to the amount paid on such partial redemption, and the county treasurer shall convey accordingly.

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§ 121. HOLDER OF TAX CERTIFICATE MUST GIVE NOTICE BEFORE DEED ISSUES—DEEDS.] If no person shall redeem lands sold for taxes within two years from the date of sale, at the end of said two years the lawful holder of the certificate of purchase shall cause a notice to be served upon the owner of the land so sold, or upon the person in possession of such land or town lot unredeemed and also upon the person in whose name the land is taxed, if such person reside in the county where the property is situated, in the manner provided by law for the service of summons signed by him, his agent or attorney, stating the date of sale, the description of the property sold, the name of the purchaser and assignee, if any, and that the right of redemption will expire and a deed for said land or lot be made within sixty days from the completed service thereof. Service may be made upon non-residents of the county by publishing the same three times in some newspaper printed in said county, and if no newspaper is printed in said county then and in that case in the nearest newspaper published in the state. Any non-

resident of the state may file with the county auditor a written appointment of some resident of the county where the lands or lots are situated as agent upon whom service shall be made and in such case personal service of said notice shall be made upon said agent. Service shall be deemed complete when an affidavit of the service of said notice and of the particular mode thereof duly signed and verified by the holder of the certificate of purchase, his agent or attorney, shall have been filed with the treasurer authorized to execute the tax deed. Such affidavit shall be filed by said treasurer and entered upon the records of his office and said record or affidavit shall be presumptive evidence of the completed service of notice herein required and until sixty days after the service of said notice the right of redemption from such sale shall not expire. The cost of serving said notice, whether by publication or otherwise, together with the cost of the affidavit, shall be added to the redemption money, provided the treasurer shall have received notice that service had been begun or made and a statement of the said costs filed in his office. Immediately after the expiration of sixty days from the date of completed service of the notice hereinbefore provided, the treasurer then in office shall make out a deed for each lot or parcel of land sold and remaining unredeemed, said deed shall be countersigned by the county auditor with the seal attached and shall be delivered to the purchaser or his assignee upon the return of the certificate of purchase. The treasurer shall receive one dollar for each deed made by him on such sales, but any number of parcels of land bought by one person may be included in one deed as the holder may desire. Said deed shall vest in the grantee an absolute estate in fee simple in such land, subject, however, to all claims which the state may have therein for taxes or liens or incumbrances.

§ 122. LIMITATION OF ACTION TO RECOVER.] No action shall be commenced by the former owner or owners of lands, or by any person claiming under him or them, to recover possession of land which has been sold and conveyed by deed for non-payment of taxes, or to avoid such deed, unless such action shall be commenced within three years after the recording of such deed, and not until all taxes, interest and penalties, costs and expenses shall be paid or tendered by the parties commencing such action. 107 May 209

§ 123. TAX SALE NOT VOIDABLE.] The sale of lands, town or city lots or any other real property, shall not be invalid on account of such real property having been listed or charged on the duplicate in any other name than that of the rightful owner; nor shall any such sale be invalid nor the conveyance for the real property so sold be voidable by reason of the neglect or failure of the treasurer, or any other officer to collect

the tax for which it was sold, by distraint and sale of personal property.

§ 124. CERTIFICATE DELIVERED FOR DEED.] When deeds are delivered by the county treasurer for real property sold for taxes, the certificate therefor must be cancelled and filed away by the county auditor, and in case of loss of any certificate, on being satisfied thereof by due proof, and bond being given to the State of South Dakota in a sum equal to the value of the property conveyed, as in cases of lost notes or other commercial paper, the county treasurer may execute and deliver the proper conveyance, and file such proof and bond with the county auditor.

§ 125. LANDS BECOMING TAXABLE.] A list of lands becoming taxable for the first time in a county of this state shall be procured by the state auditor from the proper land offices, at the best prices for the state, and a list of lands becoming so taxable in each county shall be forwarded by the state auditor to the auditor of each county on or before the fifteenth day of April of each year.

§ 126. TRANSIENT AND BANKRUPT STOCKS.] All itinerant, transient, or bankrupt stock, merchants or salesmen who vend goods within this state, at any time after the annual assessment is made shall be assessed and returned by the assessor of the town or city wherein he or they shall open or offer for sale any stock of goods, groceries or merchandise, by exhibiting the same, at the same rate as other merchants have been assessed, and such assessor shall forthwith return the same to the county treasurer to be extended upon the tax list by him.

§ 127. TRANSIENT TAX—HOW COLLECTED.] Whenever such assessment is returned to the county treasurer, it shall be his duty to issue a warrant forthwith to the constable of the town, wherein such itinerant or transient sales are being effected, commanding him to collect such tax forthwith.

§ 128. CONSTABLE TO LEVY AND SELL IF PAYMENT REFUSED.] It shall be the duty of such constable to proceed forthwith according to the exigencies of his warrant and demand the amount of taxes so levied, from the person or persons conducting such sale, and if not paid, to levy the same upon any goods, wares and merchandise as shall be found in the possession of such salesman or salesmen, and sell the same after ten days notice given in the nearest newspaper and make return thereof, deducting his legal fees and returning the surplus, if any, after paying costs and taxes, to the owner, or reputed owner or agent in possession.

§ 129. DEBTS OF MUNICIPALITIES VOID IF ENTAILING TAXATION BEYOND THE RATES FIXED BY LAW.] It shall be

unlawful for the corporate authorities of any county, township, city, town or village or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt or incur any pecuniary liability, for the payment of either the principal or interest, for which, during the current year or any subsequent year, it shall be necessary to levy on the taxable property of such county, township, city, town or village or school district, a higher rate of tax than the maximum rate prescribed by law; and every contract made in contravention of the provisions of this section shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to be made; but every commissioner, officer, agent, supervisor or member of any municipal corporation that makes or participates in making or authorizes the making of any such contract, shall be held individually liable for its performance, and every commissioner, supervisor, director or member of any city, town or village council or other officer or agent of any such municipal corporation present when any such unlawful contract was made or authorized to be made, shall be deemed to have made or to have participated in making, or to have authorized the making of the same, as the case may be, unless, if present, he dissented therefrom, and entered or caused to be entered such dissent on the records of such municipal corporation, or its council, supervisors, or other office.

§ 130. NEGLECT OF DUTY BY OFFICERS.] Every county auditor and every district or township assessor who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act; or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true value, shall for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred (200) dollars nor more than one thousand (1000) dollars at the discretion of the court, to be recovered before any court of competent jurisdiction.

§ 131. ACTS REPEALED.] All acts and parts of acts in conflict with this act or repugnant thereto are hereby repealed.

§ 132. EMERGENCY.] Whereas, the present revenue laws of the State of South Dakota are imperfect and inadequate, therefore an emergency exists, and this act shall take effect and be in force from and after the date of its passage and approval.

Approved March 9, 1891.

CHAPTER 15.

[H. B. 138.]

ASSESSMENT AND COLLECTION OF TAXES IN UNORGANIZED COUNTIES.

AN ACT to amend Section Two (2), of Chapter Sixty-five (65), of the Session Laws of Eighteen Hundred and Ninety (1890), Relating to Taxation in Unorganized Counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section two (2), of Chapter sixty-five (65), of the Session Laws of eighteen hundred and ninety, be amended by inserting the words "and judicial," between the word "state" and the word "purposes" in the last line of said section.

§ 2. REPEAL.] All acts and parts of acts which are in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 16.

[H. B. 273.]

ASSESSMENT IN UNORGANIZED COUNTIES.

AN ACT to Amend Section Three, of Chapter Sixty-five, of the Session Laws of 1890, entitled "An Act to Provide for Annexation of Unorganized to Organized Counties, for the Levy and Collection of Taxes Therein."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section Three, of Chapter Sixty-five, of the Session Laws of 1890, [be amended] to read as follows:

Section 3. Assessors shall receive as compensation for making the assessment in unorganized counties, the sum of four dollars per day for each day necessarily employed in making

assessment, which compensation shall be paid by the state treasurer from the taxes collected on such assessment.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force and effect from the date of its passage and approval.

Approved March 9, 1891.

CHAPTER 17.

[H. B. 190.]

PROVIDING FOR RE-ASSESSMENT AND COLLECTION OF TAXES FOR STREET IMPROVEMENTS.

AN ACT to Authorize Cities to Re-assess and Collect Taxes and Assessments for Local Improvements of Streets.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CITIES AUTHORIZED TO RE-ASSESS AND RE-LEVY AMOUNT OF ASSESSMENT.] The city council and city officers of any city in the State of South Dakota are hereby authorized and empowered, in cases where any assessment or assessments for local improvements of any street or streets of such city have heretofore been set aside or declared void by reason of the want of power or authority to order said improvements or for noncompliance with the provisions of the charter of such city in ordering or letting the work, or making the contracts in relation thereto, or making the assessment therefor, or where such city or any officer whose duty it was by law to collect such assessment or assessments has been restrained or enjoined from the collection of the same or any part thereof, to re-assess and re-levy the amount of such assessment or assessments for such local improvement or improvements, and to collect the same in the same manner as the taxes or assessments for local improvements are collected by law. In making such re-assessment there shall be added to the amount of the assessment and included in and made a part of such re assessment, interest on said amount at the rate of seven per cent per annum from the date the assessment heretofore made by such city became due.

§ 2. ASSESSMENTS DECLARED VALID LIENS.] The said assessment or assessments, when the same shall have been re-

assessed as provided by this act, with the interest as provided in the preceding section, are hereby declared to be valid liens upon the lots and parcels of land which would have been chargeable therewith, if the assessment or assessments had been levied and assessed according to and by authority of law, and the city making such re-assessment is hereby authorized to collect the same in the same manner as other assessments for local improvements are collected by law. *Provided*, That in all cases where the assessment formerly made by any such city shall have been heretofore paid upon any of the lots or parcels of land charged therewith, such payment shall constitute payment of the re-assessment hereby authorized to be made.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 4. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 18.

[H. B. 188.]

CERTAIN LEVY AND ASSESSMENTS CONFIRMED.

AN ACT to Confirm and Levy Certain Assessments in the City of Sioux Falls for the Grading and Curbing of Streets Thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTS CONFIRMED—ASSESSMENTS DECLARED VALID.] That all the acts and proceedings of the City of Sioux Falls and the city council and the city officers thereof in contracting for the grading and curbing of certain streets of said city and levying assessments upon property abutting upon the same to pay the cost and expense of said improvement done in the years 1889, 1890 and 1891, prior to the passage of this act, be and the same are hereby in all things legalized, ratified and confirmed. And the said assessment, heretofore before the passage of this act levied and assessed by said City of Sioux Falls for said grading and curbing of the streets thereof as aforesaid, are hereby declared to be valid liens upon the lots and parcels of land charged therewith and abutting upon said streets.

Approved March 7, 1891.

CHAPTER 19.

[H. B. 107.]

RELATING TO REVENUES IN CITIES, TOWNS AND VILLAGES.

AN ACT Relating to Revenues in Incorporated Cities, Towns and Villages.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. RATE OF TAX LEVY ESTABLISHED.] That in any city, town or village now existing under a special charter, wherein, under the provisions of said charter, the rate of levy for general municipal purposes is limited to a rate less than ten (10) mills on the dollar of valuation, and wherein the rate of levy for providing a sinking fund to pay bonded indebtedness is limited to a rate less than five (5) mills, that such city, town or village is hereby authorized and empowered to fix the rate of tax levy for the purposes mentioned at amounts not exceeding ten (10) mills on the dollar of valuation for general municipal purposes, and not exceeding five (5) mills on the dollar of valuation for the purpose of providing a sinking fund to pay the same.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1891.

CHAPTER 20.

[H. B. 193.]

DELINQUENCIES IN CITIES FOR LOCAL IMPROVEMENTS.

AN ACT to Authorize City Treasurers to Bid Off Real Property at Sales for Due and Unpaid Assessments for Local Improvements.

Be it Enacted by the Legislature of the State of South Dakota:

§1. CITY TREASURER AUTHORIZED TO BID OFF REAL PROPERTY.] The city treasurer in each city in the state of South Dakota incorporated under the general law, is hereby authorized at all sales of real property hereafter made under the laws of this state for due and unpaid special assessments

thereon for local improvements, in case there are no other bidders, to bid off all or any real property offered at such sale, for the amount of the assessment, penalty, interest and costs due and unpaid thereon, in the name of the city in which such sale takes place, such city acquiring all the rights, both legal and equitable, that any other purchaser could acquire by reason of such purchase.

§ 2. LAW REGULATING SALES AND PURCHASES BY COUNTY TREASURER TO GOVERN.] Such sale to the city, redemption therefrom, issuance of certificate therefor, sale and assignment of the same and payment of moneys arising therefrom shall be subject to the same rules and regulations as are by law provided for sales and purchases by county treasurers at tax sales.

§ 3. CITY TO PROTECT PURCHASER.] Whenever a special assessment for a local improvement shall be set aside or declared null and void by a court of competent jurisdiction, the city shall save the purchaser at the sale for said special assessment harmless, by paying him the amount of the principal which he paid upon such sale, together with interest at twelve per cent per annum from the date of sale.

Approved March 7, 1891.

CHAPTER 21.

[S. B. 53.]

RELATING TO CERTAIN WARRANTS IN PAYMENT OF TAXES.

AN ACT Relating to City, Town and School Orders and Warrants that are Offered in Payment of Taxes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. WARRANTS OFFERED IN PAYMENT OF TAX—DUTY OF TREASURER.] When any person desiring to pay any taxes due and unpaid, shall present a city, town or school order or warrant to the proper treasurer of any city, town or school township, or to the county treasurer, if he collects the city, town or school taxes for any city, town or school township in his county, in payment of such tax, which shall exceed the amount that such treasurer is authorized to receive in city, town or school orders or warrants in payment for such tax, he shall endorse on the back of such order or warrant in part payment,

the amount he is authorized by law to receive, and date the same. Said treasurer shall take two receipts from the holder of such order or warrant for the amount so endorsed and paid, showing the date of the endorsement, a full description of such city, town or school order or warrant, including the date thereof, to whom given, the amount for which it was given, and all the endorsements thereon; one of which said receipts, he shall forthwith file with the county auditor, the other he shall retain as his voucher; but in case such city, town or school treasurer shall collect the taxes of his proper city, town or school township, then, and in that case, he shall file the duplicate receipt herein provided for, with the proper city, town or school township clerk, and in such case no such receipt need be filed with the county auditor.

§ 2. EMERGENCY.] And inasmuch as an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1891.

CHAPTER 22.

[S. B. 13.]

PROPERTY EXEMPT FROM TAXATION.

AN ACT to Amend Chapter 25, of the Session Laws of 1890, Entitled "An Act to Define What Property shall be Exempt from Taxation."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Division five (5) of Section 1 of Chapter 25 of the Session Laws of 1890 be and is hereby amended so as to read:

The household furniture of each family, together with the beds and bedding thereof, all wearing apparel of every person and family actually used for wearing, and all food and fuel provided in kind, not to exceed in all the sum of twenty-five dollars.

Approved February 25, 1891.

CHAPTER 23.

[H. B. 162.] :

ASSESSORS—WHEN TO COMMENCE.

AN ACT to Amend Section 7, Chapter 28 of the Political Code of 1877.

Be it Enacted by the Legislature of the State of South Dakota.

§ 1. ASSESSMENT TO BEGIN.] That Section 7 of Chapter 28 of the Political Code of 1877 be amended so as to read as follows: The assessor shall in no case commence assessing before the first day of April of each year.

Approved March 7, 1891.

CHAPTER 24.

[S. B. 72.]

EFFECT OF CONTINUED PAYMENT OF TAXES ON LAND HELD
UNDER COLOR OF TITLE.

AN ACT Declaring the Effect of Continued Payment of Taxes on Land Held Under Color of Title.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. THE LEGAL OWNER OF LANDS OR TENEMENTS.] Every person in the actual possession of lands or tenements, under claim and color of title, made in good faith, and who shall have continued for ten successive years in such possession, and shall also during said time have paid all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements to the extent and according to the purport of his paper title. All persons holding under such possession, by purchase, devise or descent, before said ten years shall have expired, and who shall have continued such possession and payment of taxes as aforesaid so as to complete said term of ten years of such possession and

payment of taxes shall be entitled to the benefits of this section.

§ 2. UNOCCUPIED LAND OR TENEMENTS.] Whenever a person having color of title, made in good faith, to vacant and unoccupied land, shall have paid all taxes legally assessed thereon for ten successive years, he shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land to the extent and according to the purport of his paper title. All persons holding under such taxpayer, by purchase, devise or descent, before said ten years shall have expired, and who shall have continued to pay taxes as aforesaid, so as to complete the payment of taxes for said term of ten years, shall be entitled to the benefits of this section.

§ 3. EXEMPTIONS.] The provisions of this act shall not extend to school lands or to lands belonging to the United States, or this state, or to religious or charitable societies, or to lands held for a public purpose. Nor shall this act extend to lands or tenements to which there is an adverse title, the holder of which is, at the expiration of said ten years under the age of twenty-one years, insane, or imprisoned for a criminal offense for a term less than life; *Provided*, such person shall, within three years after the removal of such disability begin an action to recover possession of such lands or to establish his title thereto, and prosecute the same to judgment with due diligence.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 9, 1891.

CHAPTER 25.

[S. B. 18.]

DELINQUENCIES, PENALTIES AND LIENS.

AN ACT to Amend Section 1610 and to Repeal Section 1611 of Article 15 of Chapter 15 of the Political Code, Compiled Laws of 1887, Entitled Delinquencies, Penalties and Liens.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 1610 of Article 15 of Chapter 15 of the Political Code of Compiled Laws of 1887 be amended to read as follows:

Section 1610: That on the first Monday of February of the year after which taxes shall have been assessed, all unpaid

taxes shall become delinquent and shall draw interest at the rate of twelve per cent per annum from the date of such delinquency until paid.

§ 2. REPEAL.] That Section 1611 of Article 15 of Chapter 15 of the Political Code, Compiled Laws of 1887, be and the same is hereby repealed.

§ 3. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved January 30, 1891.

ASSESSORS.

CHAPTER 26.

[H. B. 121]

RELATING TO PAY OF ASSESSORS.

AN ACT to Amend Chapter Two of the Special and Private Laws of 1881, Entitled "An Act to Increase the Pay of Assessors in the counties of Pennington and Custer."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section one, of Chapter two, of the Special and Private Laws of 1881, be amended by striking out from said section the words "Provided that the total amount that shall be paid to such assessors and their deputies for all services rendered in making such assessment shall not exceed the amount of three hundred dollars in any one year."

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act shall have effect and be in force from and after its passage and approval.

Approved March 7, 1891.

BANKING.

CHAPTER 27.

[S. B. 106.]

ORGANIZATION AND GOVERNMENT OF STATE BANKS.

AN ACT to Provide for the Organization and Government of State Banks.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ASSOCIATIONS—HOW FORMED.] Associations for carrying on the business of banking under this title may be formed by any number of natural persons, not less than three (3), one-third of whom shall be residents of the state. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the secretary of state of the State of South Dakota.

§ 2. CERTIFICATE.] The persons uniting to form such an organization shall under their hands make an organization certificate which shall specifically state:

First. The name assumed by such association, which name shall not be that of any other bank in the state.

Second. The place where the business of discount and deposit are to be carried on.

Third. The amount of capital stock and the amount into which its shares are to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The period at which such bank shall commence and terminate business.

§ 3. CERTIFICATE TO BE FILED WITH THE SECRETARY OF STATE.] The organization certificate shall be acknowledged before a clerk of some court of record or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, recorded in the office of the register of deeds in the county where such bank may be established, and such certificate thus authenticated shall be

transmitted to the secretary of state, who shall record and carefully preserve the same in his office.

§ 4. POWERS.] Upon duly making and filing articles of association and an organization certificate, the association shall become as from the date of the execution of the same a body corporate, and as such and in the name designated in the certificate, it shall have power:

First. To adopt and use a corporate seal.

Second. To have succession for a period of twenty (20) years from its organization, unless it is sooner dissolved, according to the provisions of this act, or unless its franchise becomes forfeited by some violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend in any court of law or equity, as fully as natural persons.

Fifth. To elect or appoint directors and by its board of directors to appoint a president, vice president and cashier, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them and appoint others to fill their places.

Sixth. To prescribe by its board of directors by-laws not inconsistent with the law, regulate the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted, and the privileges granted it by law, exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money on personal security; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking, and the secretary of state may withhold from any association his certificate authorizing commencement of business whenever he has reason to suppose that the shareholders have formed the same for any other than legitimate objects as contemplated by this act.

§ 5. ADDITIONAL POWERS.] Banking associations formed under this act shall have power to purchase, hold and convey real estate for the following purposes and no other:

First. Such as may be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith, by way of security, for debts previously contracted.

Third. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it; but no such association shall hold the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debt due to it for a longer period than ten (10) years.

§ 6. CAPITAL REQUIRED.] No association shall be organized under this title in towns containing five hundred inhabitants or less, with a less capital than five thousand dollars, in towns of over five hundred and not over one thousand inhabitants with a less capital than ten thousand dollars, in towns of over two thousand inhabitants the capital shall not be less than twenty-five thousand dollars. At least 50 per cent of the capital stock of every association shall be paid in before it shall be authorized to commence business, the balance of which shall be paid in installments of not less than 10 per cent at the end of each succeeding six months from the time it is authorized to commence business. The payment of each installment shall be certified to the secretary of state under oath by the president or cashier of the association. *Provided*, That in towns of less than five hundred inhabitants any resident individual may, upon application to the secretary of state, be granted a certificate authorizing him to engage in the business of banking with a less capital than five thousand [dollars] by filing in the office of the secretary of state a good and sufficient bond to the State of South Dakota in the penal sum of ten thousand dollars, conditioned to secure depositors and creditors against loss, to be signed by at least two sureties, said bond to be approved by the secretary of state. Upon the filing and approval of said bond and issuing of said certificate by the secretary of state, said applicant shall become amenable to the provisions of this act.

§ 7. ORGANIZATION CERTIFICATE TO BE PUBLISHED.] The association shall cause the organization certificate and the official authorization of the secretary of state issued under this act to be published in some newspaper in the city or county where the association or bank is located for at least four (4) consecutive weeks next after the issuing thereof.

§ 8. ARTICLES USED IN EVIDENCE.] A certified copy of the articles of incorporation may be used in evidence in all courts for or against such bank, or any person for or against whom such evidence is necessary, whether on civil or criminal trial.

§ 9. DELINQUENT STOCK—HOW SOLD.] Whenever any shareholder or his assignee fails to pay any installment on the stock, when the same is required to be paid, the directors of

such association may sell the stock of the delinquent shareholder or as much thereof as is necessary to satisfy the debt, at public auction, after having given three weeks previous notice thereof in a newspaper published and in general circulation in the city or county where the association is located to any person who will pay the highest price therefore, to be not less than the amount due thereon, with the expenses of the advertisement and sale, and the excess if any shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association and the cost of the advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six (6) months from the time of such forfeiture.

§ 10. CAPITAL STOCK—LIABILITY OF SHAREHOLDERS.] The capital stock of each association shall be divided into shares of one hundred (\$100) dollars each and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; every person becoming a shareholder by such transfer shall, in proportion to his shares succeed to all rights and liabilities of the prior holders of such shares, and no change shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 11. INCREASE OR DECREASE OF CAPITAL STOCK.] Any association formed under this title may by its articles of association, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this title, but no increase of capital shall be valid until the whole amount shall be paid in, in cash, and such payment certified under oath by the president or cashier of such association, to the secretary of state, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase of capital stock with his approval thereof, and that it has been duly paid in as a part of the capital thereof; any association formed under this title may by vote of its shareholders, owning two-thirds of its stock, reduce its capital to any sum, not below the amount required by this title to authorize the formation of association, but no such reduction shall be made until the amount of the proposed reduction is reported to the secretary of state, and his approval thereof obtained in writing; and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction.

§ 12. ASSOCIATION HOW DISSOLVED—DUTIES OF PUBLIC EXAMINER IN RELATION THERETO.] Any association organized

under the provisions of this act, may be dissolved by the circuit court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose. The application must be in writing and must set forth that at a meeting of the stockholders or members called for that purpose the dissolution of the association was resolved upon by a two-thirds vote of all the stockholders or members, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in a civil action. A verified copy of the application shall be filed with the public examiner within ten (10) days after the filing of such application with the circuit court. If the court is satisfied that the application is in conformity with this act it must order the application to be filed, and that the clerk give not less than thirty nor more than fifty days notice of the application by publication in some newspaper published in the county, and if there are none such then by advertisement posted up in five of the principal public places in the county. At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application the public examiner shall make a thorough examination of the affairs of such association and file a certified statement of such examination with the clerk of the court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired the court may, upon five days' notice to the persons who have filed objections, or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his shares of stock, after the filing or making such application for dissolution, and prior to the final determination of the case. Upon the dissolution of such association by the circuit court, the clerk of said court shall forthwith notify the secretary of state of such dissolution, by sending a copy of the order of the court, and said order and notice shall be filed by the secretary of state with the original certificate of organization. The application, notices and proof of publication, objections (if any) and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions.

§ 13. DIVIDENDS.] The directors of any association organized under this act may semi-annually declare a dividend of

so much of the net profits of the association as they shall judge expedient, but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per cent of its capital stock.

§ 14. QUALIFICATION OF DIRECTOR.] Every director must own in his own right at least ten (10) shares of the capital stock of the association of which he is a director. Any director who ceases to be the owner of ten shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

§ 15. CAPITAL TO REMAIN INVIOLEATE—BAD DEBTS.] No association or any member thereof shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise any portion of its capital; if losses have at any time been sustained by such association equal [to] or exceeding its individual profits then on hand, no dividend shall be made; and no dividend shall be made by any association while it continues its banking business to any amount greater than its net profits on hand, deducting therefrom its losses and bad debts; all debts due to an association on which the interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section, but nothing in this section shall prevent the reduction of capital of the association under section eleven of this act.

§ 16. INTEREST.] Such association may demand and receive for loans on personal security, or for notes, bills, or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive the interest according to the ordinary usage of banking institutions.

§ 17. REPORTS—PENALTY FOR FAILURE TO MAKE.] Every association shall make at least four reports each year to the public examiner, according to the form which may be prescribed by him, verified by the oath of the president or cashier and attested by at least two of the directors; such report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day by him specified, and shall be transmitted to the public examiner within seven days after the receipt of such request from him, and in the same form shall be published in a newspaper published in the city or county where such association is located, at the expense of the association. The public examiner shall also have power to call for special reports from any association whenever in his judgment the same are necessary, in order to obtain a full and complete knowledge of its condition;

every association which fails to make and transmit any report required under this section shall be subject to a penalty of two hundred dollars for each offense.

§ 18. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders of every association organized under this title shall be individually responsible, equally and ratably, and not one for the other, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein, at the par value thereof, in addition to the amount invested in, and due on such shares.

§ 19. CERTAIN LOANS PROHIBITED.] No association shall make any loans or discounts on the security of the shares of its own stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall within six months be sold or disposed of at public or private sale.

§ 20. ASSETS AND LIABILITIES—RESERVE.] Each association shall at all times have on hand in available funds an amount equal to twenty (20) per cent of its deposits, one half of which may consist of balances due to the association from good solvent banks, and one-half shall consist of cash on hand. Whenever the available funds shall be below twenty (20) per cent of its deposits such association shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividends of its profits until the required proportion between the aggregate amount of deposits and its lawful money reserve has been restored. And the public examiner may notify any association whose lawful money reserves shall be below the amount above required to be kept on hand, to make good such reserve, and if such association shall fail so to do for a period of thirty days after such notice, the public examiner may impose a penalty of not less than one hundred (100) dollars, nor more than five hundred, which shall be collected in the same manner as other penalties prescribed in this act.

§ 21. FINES AND PENALTIES—HOW RECEIVED.] All fines and penalties heretofore provided for, to which any association organized under this act may become subject to, shall be recovered on complaint of the public examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 22. LOANS AND DISCOUNTS.] The total liability of [to] any association of any person or company, corporation or firm, for money borrowed, including in the liabilities of a company or firm, the liabilities of the several members thereof, shall not at any time exceed fifteen (15) per cent of the capital stock of such association, actually paid in, but the discount of bills of

exchange drawn in good faith against actual existing values or loans upon produce in transit or in store as collateral security and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

§ 23. PENALTIES FOR VIOLATION OF ACT.] Any person or persons violating the provisions of this act, not hereinbefore specially provided for, shall upon conviction thereof pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 24. FALSE STATEMENTS—PENALTY.] Every officer, agent or clerk of any association under this title, who wilfully and knowingly subscribes or makes any false statements or entries in the books of such association, or knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such association, or wilfully subscribes or makes false reports, shall be subject to imprisonment at hard labor in the state's prison for such term, not less than one year or more than ten years, as the court trying him may designate.

§ 25. INSOLVENT BANK NOT TO RECEIVE DEPOSITS.] No banking association shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States treasury notes or currency, or other notes, bills or drafts, circulating as money or currency, when such banking association is insolvent.

§ 26. PENALTY FOR VIOLATION OF PRECEDING SECTION.] If any such banking association shall receive or accept on deposit any such deposits as aforesaid when insolvent, any officer, director, cashier, manager, member, party or managing party thereof, who shall knowingly receive or accept, be accessory or permit, or connive at the receiving or accepting on deposit therein or thereby, any such deposits as aforesaid, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment in the penitentiary not exceeding five years, or by both [such] fine and imprisonment as aforesaid.

§ 27. WHEN BANKS MUST ORGANIZE UNDER THIS ACT—PENALTY.] It shall be unlawful for any individual, firm or corporation, to continue to transact a banking business or to receive deposits for a period longer than six months immediately after the passage and approval of this act, without first having complied with and organized under the provisions of this act. Any person violating the provisions of this section either individually or as an interested party in any association or corporation, shall be guilty of a misdemeanor, and on con-

viction thereof be fined not less than five hundred dollars nor more than one thousand dollars or imprisonment in the county jail not less than ninety days or either or both at the discretion of the court.

§ 28. FORFEIT OF FRANCHISE FOR FAILURE TO OBEY ORDER OF PUBLIC EXAMINER.] Every association organized under this title, which shall refuse or neglect to comply with any requirement lawfully made upon it by the public examiner, pursuant to this chapter, for the period of ninety days after demand in writing is made, shall be deemed to have forfeited its franchise, and any failure on the part of such association to comply with, or any violation of any of the provisions of this act shall work a forfeiture of its franchise and in either case the attorney general upon demand of the public examiner, shall commence an action for the purpose of annulling the existence of said corporation.

§ 29. PUBLIC EXAMINER EX-OFFICIO SUPERINTENDENT OF BANKS.] The public examiner of South Dakota shall be ex-officio superintendent of banks, he shall as often as shall be deemed necessary and proper, either in person or by agent duly appointed by him, examine every bank organized under this law; and he or his agent, in case he appoint one, shall have power to make a thorough examination into the affairs of the association, and in so doing may examine any of the officers, agents or clerks thereof on oath, and shall make a full and detailed report in writing of the condition of the association so examined to the governor of the state, a copy of which report shall be filed in the office of the secretary of state, which shall be open to all persons doing business with such association. No person shall be appointed to be such agent for said examiner, to examine the affairs of any association of which he is a member, and the public examiner shall not be directly or indirectly interested in any association or in any way connected with any bank.

§ 30. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1891.

BONDS.

CHAPTER 28.

[S. B. 100.]

PROVIDING FOR REFUNDING OUTSTANDING BONDS, DATED MAY 1, 1887.

AN ACT to Provide for the Refunding of Ninety-Two Thousand Five Hundred Dollars of Four and One-Half Per Cent Bonds, Dated May 1, 1887, Issued by the Territory of Dakota, for Dakota Hospital for Insane at Yankton, Payable May 1, 1907, or at the Option of the Territory after May 1, 1892.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BONDS—HOW ISSUED—RATE OF INTEREST.] That the state treasurer be and he is hereby authorized and empowered to prepare and issue the bonds of the State of South Dakota in the amount of ninety-two thousand five hundred dollars for the purpose of refunding bonds in the amount of ninety-two thousand five hundred dollars bearing four and one-half per cent interest, issued by the Territory of Dakota for Dakota Hospital for Insane at Yankton, bearing date May 1, 1887, and payable May 1, 1907, or at the option of the territory after May 1, 1892. Which said bonds were assumed by the State of South Dakota as provided by the constitution of the said state. The said bonds hereby authorized shall run for the term of twenty years and shall bear interest at a rate not to exceed three and one-half per cent per annum, payable semi-annually on the first days of January and July in each year in the city of New York. Such bonds shall be executed by the governor and state treasurer and attested by the secretary of state under the great seal of the state, and shall be negotiated by the treasurer. The said bonds shall not be sold for less than their par value, and any premium received by the state treasurer in negotiating the same shall be covered into the general fund of the state. That the state auditor be and is hereby authorized to issue his warrant in payment of the expenses made in preparing and delivering these bonds.

Approved March 7, 1891.

CHAPTER 29.

[S. B. 101.]

PROVIDING FOR REFUNDING OUTSTANDING BONDS DATED
MAY 1, 1885.

AN ACT to Provide for the Refunding of Fifteen Thousand Dollars of six per cent Bonds, dated May 1, 1885, issued by the Territory of Dakota for furnishing the Main Building of the Dakota University, Payable May 1, 1905, or at the Option of the Territory after May 1, 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BONDS—HOW ISSUED—RATE OF INTEREST.] That the state treasurer be and he is hereby authorized and empowered to prepare and issue the bonds of the State of South Dakota in the amount of fifteen thousand dollars for the purpose of refunding bonds in the amount of fifteen thousand dollars, bearing six per cent interest, issued by the Territory of Dakota for furnishing the main building of the Dakota University, bearing date May 1, 1885, and payable May 1, 1905, or at the option of the territory after May 1, 1890. Which said bonds were assumed by the State of South Dakota, as provided by the constitution of the said state. The said bonds hereby authorized shall run for the term of twenty years and shall bear interest at a rate not to exceed four per cent per annum, payable semi-annually on the first days of January and July in each year, in the city of New York. Such bonds shall be executed by the governor and state treasurer and attested by the secretary of state under the great seal of the state, and shall be negotiated by the treasurer. The said bonds shall not be sold for less than their par value, and any premium received by the state treasurer in negotiating the same shall be covered into the general fund of the state. That the state auditor be and is hereby authorized to issue his warrant in payment of the expenses made in preparing and delivering these bonds.

§ 2. EMERGENCY.] Whereas, there is no law now in force providing for the refunding of fifteen thousand dollars of six per cent bonds, dated May 1, 1885, issued by the Territory of Dakota for furnishing the main building of the Dakota University, payable May 1, 1905, or at the option of the territory after May 1, 1890, therefore an emergency exists, and this law shall take effect and be in force from and after its passage and approval.

Approved February 25, 1891.

CHAPTER 30.

[H. B. 73.]

REGISTRATION OF STATE BONDS.

AN ACT to Provide for the Registration by the Treasurer of State of Bonds Issued or Assumed by the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TREASURER TO REGISTER BONDS.] The state treasurer shall immediately procure a bond register and register all outstanding bonds of the State of South Dakota, or which this state assumed and agreed to pay as hereinafter provided, and hereafter all bonds issued by the state shall by the treasurer be registered in such bond register, stating the number of such bond, its date of maturity, amount, rate of interest, to whom and where payable.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 31.

[H. B. 169.]

LEGALIZING EXPENSE INCURRED IN SALE OF STATE BONDS.

AN ACT Legalizing the Payment by the State Treasurer of Certain Expenses Incurred in the Negotiation and Sale of State Bonds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. EXPENSE LEGALIZED.] That the payment by the state treasurer of the following items of expense, namely, the sum of fifty five dollars expressage, and five dollars and thirteen cents for telegrams incurred in the matter of negotiation and sale of state bonds authorized and issued under the provisions of Chapter 30 of the Session Laws of 1890, be and the same is hereby legalized.

Approved March 7, 1891.

CHAPTER 32.

[S. B. 264.]

AUTHORIZING THE FUNDING OF COUNTY INDEBTEDNESS.

AN ACT Authorizing the Funding of Outstanding Bonded and Judgment Indebtedness of Counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BONDS—HOW ISSUED.] Each and every organized county of this state is hereby authorized and empowered by and through its board of county commissioners when in the judgment of said board it is deemed to be to the best interest of the county to issue its negotiable bonds in the name of the county corporation for the sole purpose of funding the outstanding bonded indebtedness existing against the county, that is due and payable, or is about to become due and payable, or whenever said indebtedness can be refunded at a lower rate of interest, or whenever judgments have been entered on any such bonds or interest coupons.

§ 2. INTEREST.] The bonds issued under the provisions of this act shall be in denominations of not less than \$100.00 nor more than \$1,000.00, shall bear the date of their issue; shall be made payable to the purchaser or bearer, and shall be made payable in not less than ten nor more than twenty years from their date, and bear interest at a rate not exceeding six and one half (6½) per cent per annum, and payable annually or semi-annually as may be agreed upon, with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of county commissioners, and shall be attested by the county clerk or auditor. The seal of the county shall be affixed to each bond but not to the coupons. Said bonds shall be engraved or lithographed on good bond paper, and each bond shall recite upon its face that it is issued under and pursuant to the provisions of this act, designating it by its title and date of approval or becoming a law. Said bonds may be made payable anywhere in the United States.

§ 3. BONDS IN EXCHANGE FOR OUTSTANDING INDEBTEDNESS.] Said bonds may be exchanged at not less than par value for an equal amount of bonds permitted to be funded under the provisions of Section 1 of this act, of the county issuing them or issued in discharge of said judgments, at the par value of said bonds, or said bonds may be sold by the board

of county commissioners at not less than par value, and the proceeds applied solely to the payment of such indebtedness. When such bonds are so taken up by the issue of bonds as herein provided for such bonds shall be marked "Exchanged for bond No....." (giving number of bond,) and shall be retained by the county treasurer until his settlement with the county commissioners, and shall then be carefully compared with the bond register, and after such comparison shall be placed in the custody of the county auditor or county clerk, and it shall be his duty to preserve the same. When such judgments are discharged they shall be duly satisfied of record and a proper record thereof be made in the bond register.

§ 4. TAX.] The board of county commissioners shall each year levy upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues, and a reasonable time before maturity, a sufficient tax to provide a sinking fund for the payment of the bonds when they mature.

§ 5. COUNTY TREASURER TO PAY.] When said bonds and the several coupons thereto attached, mature it shall be the duty of the county treasury to pay the same on presentation out of any funds in his hands applicable thereto, and shall cancel them, when paid, by writing or stamping across the face of each coupon or bond the words "cancelled by payment this.....day of....." (inserting the day of payment). But if said bonds and coupons are made payable elsewhere than at the office of the county treasurer he shall forward such funds to the place of such payment so that they shall be paid at maturity in accordance with the terms thereof.

§ 6. TREASURER TO KEEP BOND REGISTER.] Before the bonds are issued under the provisions of this act, they shall be presented to the county treasurer, who shall register them in a book to be kept for that purpose; and known as the "Bond Register," in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable, and he shall also keep a register of the bonds and judgments funded under the provisions of this act.

§ 7. WHAT BONDS NEGOTIABLE.] Bonds issued in substantial conformity to this act shall in law be considered negotiable.

§ 8. EMERGENCY.] Whereas, an emergency exists within the meaning of the constitution of this state, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

BRIDGES.

CHAPTER 33.

[H. B. 24.]

AUTHORIZING THE CONSTRUCTION OF BRIDGES.

AN ACT Entitled an Act Authorizing Counties to Build all Bridges Within the County Limits When the Cost of the Construction of the Same Exceeds One Hundred Dollars.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PETITION—DUTY OF BOARD OF COUNTY COMMISSIONERS.] Whenever a majority of the freeholders of a civil township, or a majority of freeholders living within a radius of three miles of the proposed location shall petition the board of county commissioners for a bridge at a specified location within said township or townships, when the cost of said bridge will exceed the sum of one hundred dollars, it shall be the duty of the board of county commissioners to view the location and investigate the necessity of the said proposed bridge, and if the county board approve its location and building, said county board of commissioners shall then proceed to advertise in the official paper of the county for a period of thirty days, asking for sealed bids for the building of said bridge to be submitted to them at their next regular or special meeting, at which meeting of the board the county commissioners shall proceed to examine all sealed proposals or bids for the building of said bridge, and shall award the building of said bridge to the lowest responsible bidder, requiring the bidder to give a good and sufficient bond, in a sum not less than the amount stipulated in the bid or contract, for the faithful building of any bridge according to the plans and specifications, said bond to be approved by the board of county commissioners, and filed in the office of the county auditor. *Provided, That* said commissioners may reject any and all bids.

§ 2. EXPENSE—HOW PAID.] The cost and expense of the construction of said bridge shall be paid out of the county bridge fund upon the warrant of the chairman of the board of county commissioners, if said bridge is accepted and approved by said board.

§ 3. TOWNSHIP BOARD TO HAVE SUPERVISION.] After

any bridge built by the county under the provisions of this act, said bridge shall be under the supervision of the township board, and all repairs not exceeding twenty-five dollars shall be done by the township, or townships in which said bridge is located, and all repairs exceeding twenty-five dollars and less than one hundred dollars, shall be divided equally between the county and the township, or townships. All repairs exceeding one hundred dollars shall be paid by the county.

§ 4. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 23, 1891.

CIVIL TOWNSHIPS.

CHAPTER 34.

[H. B. 30.]

PER DIEM OF OVERSEERS.

AN ACT to Amend Section 28, Sub-Chapter 2, Chapter 112, of the Laws of the Legislative Assembly of the Territory of Dakota, of the year 1883.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 28, Sub Chapter 2, Chapter 112, of the Laws of the Legislative Assembly of the Territory of Dakota of the year 1883 be, and the same is hereby amended to read as follows:

Section 28. Every overseer of highways is entitled to two dollars per day, to be paid out of the fines and commutation money for every day he is necessarily employed in the execution of his duties as overseer. *Provided*, That at every town meeting, before the electors proceed to elect the overseers, they shall fix a limit of compensation for the overseers in their respective districts, and may, by resolution, reduce the pay per day when there are no funds from fines or commutations. The supervisors may pay the overseers out of any funds in their hands raised for the purpose of repairing and making roads and bridges.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 14, 1891.

COMMISSIONER OF IMMIGRATION.

CHAPTER 35.

[S. B. 54.]

REPEALING ACT CREATING OFFICE OF COMMISSIONER OF IMMIGRATION.

AN ACT to Abolish the Office of Commissioner of Immigration.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That Article four (4), of Chapter five (5), of the Political Code (Section one hundred [and] three (103) to one hundred [and] sixteen (116), inclusive, of the Compiled Laws) and all acts amendatory thereto are hereby repealed.

Approved March 7, 1891.

CONSTITUTION.

CHAPTER 36.

[H. B. 81.]

PROPOSING AN AMENDMENT TO REDUCE THE MILEAGE OF MEMBERS OF THE LEGISLATURE.

A JOINT RESOLUTION Proposing an Amendment to Section 6 of Article 3 of the Constitution so as to Reduce the Mileage of Members of the Legislature to Five Cents per Mile, and Submitting the Same to a Vote of the People.

Be it Resolved by the House of Representatives of the State of South Dakota, the Senate Concurring Therein:

§ 1. QUESTION SUBMITTED.] That at the general election to be held in the State of South Dakota on the first Tuesday after the first Monday in November, 1892, there shall be

submitted to a vote of the qualified electors of the state, the following question: "Shall Section 6 of Article 3 of the constitution be amended so as to reduce the mileage of members of the legislature to five cents per mile?"

§ 2. FORM OF BALLOT.] The form of the ballot to be used in voting on said question shall be as follows: "Shall Section 6 of Article 3 of the constitution be amended so as to reduce the mileage of the members of the legislature to five cents per mile? Yes. No." All electors voting in favor of such amendment and reducing the mileage of the members of the legislature to five cents per mile shall erase the word "No," and all desiring to vote against such amendment shall erase the word "Yes."

§ 3. CANVASSING OF VOTES—SECTION AS AMENDED.] The votes upon such proposition shall be counted, returned and canvassed in like manner as the votes for state officers, and if it shall appear from such returns and canvass of all the votes cast at said election that a majority of the electors voted against such amendment, said Section 6 of Article 3 of the constitution shall remain unchanged; but if it shall appear that a majority of the electors voted in favor of such proposition, then Section 6 of Article 3 of the constitution shall be amended so as to read as follows:

"Section 6: The terms of the office of the members of the legislature shall be two years. They shall receive for their services the sum of five dollars for each days' attendance during the session of the legislature, and five cents for every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route. Each regular session of the legislature shall not exceed sixty days except in cases of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage."

CHAPTER 37.

[H. B. 287.]

PUBLICATION OF AMENDMENTS TO CONSTITUTION.

AN ACT Providing for the Publication of Amendments Proposed to the Constitution of the State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TIME OF PUBLICATION.] That any amendment or amendments to the constitution of this state which shall be pro-

posed by the legislature to be submitted to a vote of the people, shall be published for a period of twelve (12) weeks next previous to the date of the election at which such amendment or amendments are to be voted upon, and the secretary of state shall cause such amendment or amendments so proposed to be separately published in at least one newspaper, to be designated by him, in each judicial circuit of this state for said period of twelve (12) weeks next preceding such election.

Approved March 7, 1891.

COLLEGES.

CHAPTER 38.

[H. B. 99.]

NAMES OF COLLEGES CHANGED.

AN ACT to Change the Name of the Agricultural College of Dakota to the Agricultural College of South Dakota, and to Change the Name of the University of Dakota to the University of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AGRICULTURAL COLLEGE.] The name of the Agricultural College at Brookings, South Dakota, is hereby changed from the Agricultural College of Dakota to the Agricultural College of South Dakota.

§ 2. STATE UNIVERSITY.] The name of the University at Vermillion is hereby changed from the University of Dakota to the University of South Dakota.

§ 3. REPEAL.] All acts or parts of acts in conflict with Sections one and two of this act are hereby repealed.

Approved March 5, 1891.

CORPORATIONS.

CHAPTER 39.

[S. B. 85.]

AUTHORIZING MINORS TO HOLD STOCK IN BUILDING AND LOAN ASSOCIATIONS.

AN ACT Authorizing Minors to Take and Hold Shares in Building and Loan Associations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AUTHORITY FOR MINORS TO TAKE AND HOLD STOCK.] That any building and loan association incorporated or to be incorporated under and by virtue of the laws of the State of South Dakota may permit parents and guardians to take and hold shares in such association in behalf and for the use of their minor children or wards, providing the costs of such shares be defrayed by such parent, guardian, child or ward in such manner as the costs in other shares are defrayed.

§ 2. AUTHORITY OF MINORS DEPENDENT ON THEIR OWN EXERTIONS.] That minors who have no guardians and who support themselves by their own exertions, who make their own contracts and transact their own business may take and hold shares so long as they comply with the by-laws of said corporation, and may withdraw said stock at any time as otherwise provided and may demand the redemption of their certificates of stock at their maturity.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EFFECT WHEN.] This act shall be in force and take effect at the expiration of the constitutional period after its passage and approval.

Approved February 17, 1891.

CHAPTER 40.

[S. B. 117.]

INCORPORATION OF SOCIETIES.

AN ACT to Amend Section 538 of the Civil Code, being Section 3136 of the Compiled Laws of 1887, Relating to Trustees and Directors in Religious, Educational and Benevolent Corporations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 538 of the Civil Code be amended so as to read as follows: Section 538. Persons associated together for religious, educational, benevolent, charitable or scientific purposes may elect trustees or directors, not less than three nor more than twenty-five, and may incorporate themselves as generally provided for in this chapter.

Approved February 23, 1891

COUNTIES.

CHAPTER 41.

[H. B. 156.]

DEFINING THE BOUNDARIES OF LYMAN AND PRESNO COUNTIES.

AN ACT Defining the Boundaries of Lyman and Presno Counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LYMAN COUNTY.] That the county of Lyman shall be bounded and described as follows: Commencing at the point center of main channel of the Missouri river where the township line between township number ninety-nine and one hundred if extended would cross the same, thence west on said township line to the southwest corner of township number one hundred, north of range number seventy-four, west of fifth

See 137 NW 600

principal meridian, thence north to the northwest corner of said township, thence east on the base line to the southwest corner of township number one hundred and one, north, range seventy-four, west of said meridian, thence north on the range line between range number seventy-four and range seventy-five to the center of main channel of the Missouri river, thence down the center of main channel of said river to the north end of island known as American island, thence along the west bank of said island to the south end of said island to a point at or near the center of main channel of said river, thence down the center of main channel of said river to place of beginning.

4437 NW/600 § 2. PRESNO COUNTY.] That Presno county shall be bounded and described as follows: Commencing at the southeast corner of township number one hundred and one, north of range seventy-five, thence west on the township line between one hundred and one hundred and one to the southwest corner of township one hundred and one, north of range seventy nine, west of fifth principal meridian, thence north on west boundary line of range seventy-nine, west, to northwest corner of township one hundred and eight, west, range seventy-nine, thence east on township line between township one hundred and eight and township one hundred and nine to the center of main channel of the Missouri river, thence down the center of main channel of said river to that point where the range line between range seventy-four and range seventy-five, if extended, would intersect the same, thence south on said line to place of beginning.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 42.

[S. B. 152.]

DEFINING THE BOUNDARIES OF MARSHALL COUNTY.

AN ACT to Define the Boundaries of Marshall County.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOUNDARIES.] That all the district of country included within the following boundary lines, to-wit: Beginning at a point where the boundary line between the State of North

Dakota and the State of South Dakota intersects the eastern boundary line of Brown county; thence south along the eastern boundary line of said Brown county to the northwest corner of township one hundred and twenty-four (124), north of range fifty-nine (59); west fifth principal meridian, thence east along the north line of said township one hundred and twenty-four (124) to the northeast corner of said township one hundred and twenty-four (124), north of range fifty-three (53), west fifth principal meridian; thence north along the range line between range fifty-two (52) and range fifty-three (53) to a point where said line extended would intersect the boundary line between North Dakota and the State of South Dakota; thence west along the said boundary line between the State of North Dakota and the State of South Dakota to the place of beginning, shall be and the same is hereby constituted and declared to be the county of Marshall.

§ 2. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, there being no legislative enactment clearly defining the boundaries of Marshall county, an emergency is hereby declared to exist and this act shall take effect and be in force on and after its passage and approval.

Approved February 25, 1891.

CHAPTER 43.

[S. B. 216.]

COUNTIES TO PURCHASE, HOLD AND CONVEY REAL ESTATE

AN ACT Authorizing Counties in South Dakota to Purchase, Hold and Convey any Real Estate Sold at Execution Sale, Held Pursuant to Any Judgment in an Action Wherein the County Shall be a Party.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COUNTY COMMISSIONERS MAY INSTRUCT AUDITOR TO BID.] That whenever any real estate shall be advertised to be sold at execution sale, held pursuant to any judgment in an action wherein any county in the State of South Dakota, shall be a party, the board of county commissioners of such county may instruct the county auditor thereof to bid in such real es-

tate in the name of the county, and shall fix the maximum price to be by him bid for such real estate.

§ 2. DUTY OF COUNTY AUDITOR.] It shall be the duty of the county auditor upon the receipt of such instructions to attend such sale, and in case no more shall be bid for such real estate than the maximum amount fixed by the board of county commissioners to purchase the said real estate at the lowest price at which the same can be procured.

§ 3. COUNTY TO HOLD REAL ESTATE.] Any county is hereby authorized to hold in its own name and for its own benefit all real estate acquired under the provisions of this act.

§ 4. SALE OF REAL ESTATE.] The board of county commissioners of any county holding real estate under the provisions of this act shall have power to direct the sale of said real estate in the manner hereinafter provided, without first submitting the proposition of such sale to a vote of the people. *Provided however,* That before such sale the board of county commissioners shall appoint three disinterested persons, residents and freeholders of such county to appraise such property, who shall immediately proceed to make such appraisement, and when made the same shall be signed by such appraisers and filed in the office of the county auditor.

§ 5. PRICE TO BE OBTAINED.] The sale of such real property shall be conducted in the same manner as the sale of real property on execution, and in no case shall such real property be sold for a sum less than ninety per cent of the appraised value.

§ 6. SALARY OF APPRAISERS.] The appraisers so appointed shall each receive for his services three dollars per day for each day necessarily employed in making such appraisement.

§ 7. DEED—HOW EXECUTED.] Whenever any real property shall be sold under the provisions of this act the county auditor shall execute a deed therefor under the seal of his office, upon the order of the board of county commissioners duly entered upon their records.

Approved March 7, 1891.

CHAPTER 44.

[S. B. 227.]

ADJUSTMENT OF TERRITORIAL AND STATE TAXES BETWEEN
STATE AND VARIOUS COUNTIES.

AN ACT to Provide for the Settlement and Adjustment of Territorial and State Taxes for 1890 and Previous Years Between the State and the Various Counties of the State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DUTY OF COUNTY AUDITOR.] It is hereby made the duty of the county auditor of each county in the state on or before June 30, 1891, to transmit to the auditor of state upon blanks furnished by him, a statement under oath showing the total amount of territorial and state taxes extended upon the tax lists of his county for the year 1890 and previous years which have not been adjusted or paid in full into the state treasury including all additional assessments made by the county clerk, auditor or treasurer from any of said years.

§ 2. STATEMENT TO BE RENDERED.] Upon receiving said statements the state auditor and treasurer shall render a statement to the county auditor of each county showing the amount of territorial or state taxes, if any, owing by the county to the state. They shall take the amounts shown by said county auditor's statements as the proper charges to be made against each county, to which shall be added all penalty and interest collected and they shall credit each county with all amounts paid into the state treasury and all refunds reported.

§ 3. FINAL ADJUSTMENT.] The state auditor and treasurer are further authorized to credit said counties with state taxes abated by order of the county commissioners, and all other amounts to which said counties may by affidavit of county auditor or treasurer show themselves entitled, and upon such allowance and adjustment of account the board of county commissioners shall authorize and require the county treasurer to remit the balance so found to be due the state to the state treasurer in the same manner as is now or may hereafter be made for transmitting state taxes to the state treasurer. *Provided,* That if upon such settlement it appears that any county has over-paid the amount due the state upon the basis herein provided, such over-payment may be credited by the state auditor and treasurer upon state taxes hereafter to become due from such county.

§ 4. NEGLIGENCE OR REFUSAL DECLARED A MISDEMEANOR.] Any county auditor, treasurer or county commissioner neglect-

ing or refusing to comply with the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred nor more than five hundred dollars.

§ 5. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 45.

[S. B. 275.]

JURISDICTION EXTENDED.

AN ACT Placing Certain Islands in the Missouri River Within the Limits and Jurisdiction of Certain Counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMERICAN ISLAND TO BE PART OF BRULE COUNTY.] All that tract or parcel of land lying and being in the Missouri river, and known as American Island, and by act of congress commonly designated as the Sioux Reservation bill, donated to the city of Chamberlain, is hereby made a part of the county of Brule and declared to be within its limits and jurisdiction.

§ 2. FARM ISLAND TO BE PART OF HUGHES COUNTY.] All that tract or parcel of land lying and being in the Missouri river and known as Farm Island, and by act of congress commonly designated as the Sioux Reservation bill, donated to the city of Pierre, is hereby made a part of the county of Hughes and declared to be within its limits and jurisdiction.

Approved March 7, 1891.

CHAPTER 46.

[H. B. 54.]

REPEALING ACT AUTHORIZING COUNTIES TO PAY DEFICIENCIES FOR COURT HOUSES AND JAILS.

AN ACT to Repeal Chapter 67 of the Session Laws of 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That chapter 67 of the session laws of 1890 be and the same is hereby repealed.

Approved February 11, 1891.

COUNTY AUDITOR.

CHAPTER 47.

[S. B. 7.]

REGULATING THE SALARY OF COUNTY AUDITOR.

AN ACT Regulating the Salary of County Auditor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SALARY—HOW DETERMINED.] The salary of county auditor shall be fixed upon the basis of the population of their respective counties as follows:

Four hundred (\$400.00) dollars for the first two thousand (2,000) or less, and one hundred (\$100.00) dollars for each additional thousand or major fraction thereof, to be paid quarterly by the treasurer of the respective counties from the funds thereof. *Provided however,* That the salary of such auditor shall not exceed eight hundred (\$800.00) dollars in any county where the population does not exceed ten thousand (10,000), and shall not exceed one thousand (\$1,000.00) dollars in any county where the population does not exceed twelve thousand (12,000), and shall not exceed twelve hundred (\$1200.00) in any county where the population does not exceed twenty thousand (20,000); and the salary of such auditor shall not in any county exceed fifteen hundred (\$1500.00) dollars.

§ 2. POPULATION—HOW DETERMINED.] To determine the population of any county for the purposes of this act, the vote cast for governor in such county [at] the last general election before such auditor shall enter upon the duties of his office, shall be multiplied by five, and the product thereof shall be the population of such county.

§ 3. ACT SHALL NOT EFFECT PRESENT OFFICERS.] This act shall not reduce or increase the salaries of county auditors who were elected and qualified prior to the taking effect hereof.

§ 4. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 9, 1891.

COUNTY COMMISSIONERS.

CHAPTER 48.

[H. B. 19.]

FEES OF COUNTY COMMISSIONERS.

AN ACT to Amend Section 1424, of the Political Code, Compiled Laws of Dakota, 1887.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT—FEES OF COUNTY COMMISSIONERS LIMITED.] That section numbered 1424 of the Political Code, Compiled Laws of Dakota, 1887, be amended by adding thereto the following: *Provided, however,* That no county commissioner shall receive more than one hundred and twenty-five dollars as per diem, nor more than forty dollars as mileage, during any one year.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1891.

COURTS.

CHAPTER 49.

[H. B. 140.]

REGULATING CHANGE OF TRIAL FROM COUNTY COURTS TO CIRCUIT COURTS.

AN ACT Regulating a Change of Trial from County Courts to Circuit Courts in Civil and Criminal Actions.

Be it Enacted by the Legislature of the State of South Dakota.

§ 1. CHANGE—HOW MADE.] That in counties of less than seven thousand inhabitants, in all actions, civil and criminal,

where the defendant before notice of trial is served, makes and files an affidavit that he or she believes that a fair and impartial trial cannot be had before the judge of such county court, by reason of the interest, prejudice or bias of such judge, the judge of such court must immediately order the case transferred to the circuit court of said county, and after such order shall have been made the clerk of said county court must file all the papers and pleadings in such action in the circuit court, and said circuit court to which the action is transferred shall have the same jurisdiction over it as if it had commenced in said court.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 50.

[H. B. 213.]

REMOVAL OF THE ACTION BEFORE TRIAL.

AN ACT to Amend Section 7312 of the Compiled Laws of the Territory of Dakota. Being Section 285 of the Code of Criminal Procedure.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 7312 of the compiled laws of the Territory of Dakota, being section 285 of the code of criminal procedure, be and the same is hereby amended to read as follows:

A criminal action, prosecuted by indictment, may, at any time before trial is begun, on the application of the defendant, be removed from the court in which it is pending, if the offense charged in the indictment be either a felony or misdemeanor, whenever it shall appear to the satisfaction of the court by affidavits, or if the court should so order by other testimony, that a fair and impartial trial cannot be had in such county, or subdivision, in which case the court may order the person accused to be tried in some near or adjoining county, in any circuit where a fair and impartial trial can be had; but the party accused shall be entitled to a removal of the action but once, and no more, and if the accused shall make affidavit that he cannot have an impartial trial by reason of the bias or preju-

dice of the presiding judge of the circuit court where the indictment is pending, the judge of such court may call any other judge of a circuit court to preside at said trial, and do any other act with reference thereto, as though he was presiding judge of said circuit court.

Approved March 9, 1891.

CHAPTER 51.

[H. B. 13.]

LIMITING NUMBER OF JURORS.

AN ACT to Amend Sections 6096, 6097, and to Repeal Section 6098 of the Justice Code, Compiled Laws, 1887.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. NUMBER OF JURORS LIMITED.] That Section Number 6096, of the Justice Code, Compiled Laws, Dakota, 1887, be amended by striking out the word "eighteen" where it occurs in the fourth line of said section. and inserting in lieu thereof the word "twelve," and strike out the word "twelve" where it occurs in the twelfth line of said section and inserting in lieu thereof the word "six."

§ 2. CHALLENGES AND TALESMEN.] That Section Number 6097, of the Justice Code, Compiled Laws, Dakota, 1887, be amended by striking out the word "twelve" where it occurs in the third line of said section and inserting in lieu thereof the word "six."

§ 3. REPEAL OF SECTION 6098.] That Section Number 6098, of the Justice Code, Compiled Laws, Dakota, 1887, be and the same is hereby repealed.

§ 4. REPEAL.] That all acts and parts of acts which are in conflict with the provisions of this act are hereby repealed.

Approved February 11, 1891.

CHAPTER 52.

[S. B. 178.]

TERMS OF CIRCUIT COURT.

AN ACT to Amend Sections 2 and 4 of Chapter 76 of the Laws of 1890, Relating to the Terms of the Circuit Court for the Fourth Judicial Circuit.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. FOURTH CIRCUIT.] That Section 4 of Chapter 76 of the Laws of 1890, be amended to read as follows:

Fourth Circuit: The Circuit Court of the Fourth Judicial Circuit shall annually hold terms of court in each of the counties comprising such circuit as follows: Sanborn county, on the first Tuesdays in May and October; Davison county, on the third Tuesdays in May and second Tuesdays of November; Aurora county, on the first Tuesdays in March and September; Brule county, on the first Tuesdays in December and the second Tuesdays in June; Buffalo county, on the first Tuesday in June; Jerauld county, on the second Tuesday in October; Hanson county, on the third Tuesday in February and the third Tuesday in September; Miner county, on the third Tuesday in October.

§ 2. SECOND CIRCUIT.] That Section 2 of Chapter 76 of the Session Laws of 1890, be amended by striking out the words "Lake county, on the second Tuesdays in February and September," and inserting in lieu thereof the words "Lake county on the second Tuesday in February."

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

CHAPTER 53.

[S. B. 86.]

TERMS OF CIRCUIT COURT.

AN ACT to Amend Sections 1, 2 and 6 of Chapter 76 of the Session Laws of 1890, Fixing the Terms of the Circuit Court.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FIRST CIRCUIT.] That section 1 of chapter 76 of the laws of 1890 be and the same is amended so as to read as follows:

Section 1. The circuit court of the first judicial circuit

shall annually hold terms of court in each of the counties comprising such circuit, as follows:

In Union county on the third Tuesday in April and the fourth Tuesday of September; in Clay county on the first Tuesday in April and second Tuesday in October; in Yankton county on the second Tuesdays of March and November; in Turner county on the second Tuesdays of February and September; in Bon Homme county on the first Tuesdays of May and December; in Hutchinson county on the third Tuesday of May and fourth Tuesday of October; in Douglas county on the third Tuesday in May and fourth Tuesday in November, and in Charles Mix county on the first Tuesday in June.

§ 2. SECOND CIRCUIT.] That section 2 of chapter 76 of the Session Laws of 1890 be and the same is hereby amended to read as follows:

The circuit court of the second judicial circuit shall annually hold terms of court in each of the counties comprising such circuit as follows:

Lincoln county on the third Tuesdays in March and October; Lake county on the second Tuesdays in February and September; Moody county on the first Tuesday in March and fourth Tuesday in September; McCook county on the second Tuesday in April and the first Tuesday in November; Minnehaha county on the fourth Tuesday in April and the third Tuesday in November.

§ 3. SIXTH CIRCUIT.] That the word "March" in the fifth line of section 6 in said chapter 76 be stricken out and the word "December" be inserted in lieu thereof.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. EMERGENCY.] An emergency is hereby declared to exist, and this law shall take effect from and after its passage and approval.

Approved February 11, 1891.

CHAPTER 54.

[H. B. 187.]

TERMS OF CIRCUIT COURT.

AN ACT to Amend Sections Two and Seven of Chapter Seventy-Six (76) of the Session Laws of 1890, Entitled, "Terms of the Circuit Courts."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT—SECOND CIRCUIT.] That Section seven (7) of Chapter seventy-six (76) of the Session Laws of 1890, be and

the same is hereby amended by striking out the words "second Tuesday in July," where they occur in the fifth line of said section, and inserting in lieu thereof the words "second Tuesday in April."

§ 2. TERMS OF COURT IN MINER COUNTY.] That Section 4 of Chapter 76 of Session Laws of 1890 be amended by striking out the words "third Tuesday in April, and" where they occur in said section in relation to terms of court in Miner county, and inserting in lieu thereof the words "third Tuesday in."

§ 3. TERMS OF COURT IN LAKE COUNTY.] That Section 2 of Chapter 76, Session Laws of 1890, be amended by striking out the words "Lake county on the second Tuesday in February and September," and inserting in lieu thereof the words "Lake county on the second Tuesday in February."

§ 4. TERMS OF COURT IN MOODY COUNTY.] That Section 2 of Chapter 76, of the Session Laws of 1890, be amended by striking out in Section 2 of Chapter 76 of the Session Laws of 1890, where it applies to the terms of court in Moody county, the words "and fourth Tuesday in September."

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 6. EMERGENCY.] Whereas an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 55.

[S. B. 269.]

TERMS OF CIRCUIT COURTS.

AN ACT to Amend an Act, Entitled "An Act to Amend Sections 1, 2 and 6 of Chapter Seventy-six of the Session Laws of 1890, Fixing the Terms of the Circuit Court," and Passed at the Second Session of the Legislature of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 1 of an act, entitled, "An Act to amend Sections 1, 2 and 6 of Chapter 76 of the Session Laws of 1890, fixing the terms of the circuit court," and

passed at the second session of the Legislature of the State of South Dakota, be amended by striking out the word "third" where the same occurs in the fourteenth line of said Section one, enrolled bill, and inserting in lieu thereof the word "fourth."

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

EDUCATION.

CHAPTER 56.

[S. B. 187.]

ESTABLISHING A UNIFORM SYSTEM OF EDUCATION.

AN ACT to Establish a Uniform System of Education for the State of South Dakota and to Repeal Certain Legislation Relating Thereto.

Be it Enacted by the Legislature of the State of South Dakota :

CHAPTER I.

STATE SUPERVISION.

§ 1. SUPERINTENDENT OF PUBLIC INSTRUCTION—DUTIES OF.] The superintendent of public instruction shall be charged with the general supervision of all the county schools and of the county superintendents of the state. He shall meet county superintendents in convention at such points in the state as he may deem most suitable for the purpose, and by explanation and discussion endeavor to secure a more uniform and efficient administration of the school laws. He shall attend teacher's institutes in the several counties in the state as far as may be

consistent with other duties imposed by law, and assist, by lecture or otherwise, in their instruction and management. The state superintendent shall prescribe rules and regulations for holding county normal institutes. He shall render a written opinion to any county superintendent asking it, touching the exposition or administration of the school law, and shall determine all cases appealed from the county superintendent.

§ 2. SUPERINTENDENT'S OFFICE—PUBLIC DOCUMENTS TO BE FILED.] An office shall be provided for him at the seat of government, in which he shall file all papers, reports and public documents transmitted to him by the county superintendents, each year separately, and hold the same in readiness to be exhibited to the governor, or a committee of either house of the legislature at any time when required; and he shall keep a faithful record of all matters pertaining to his office. All books presented to his office or purchased therefor, shall be carefully preserved and catalogued by him. The educational library thus formed shall be open to the teachers of the state for reference and examination.

§ 3. SCHOOL LAW TO BE PRINTED.] Immediately after the adjournment of the second legislature, and every four years thereafter, if deemed necessary, he shall cause the school law to be printed, together with all amendments thereto, with such notes, rulings, forms and decisions as may seem of value to aid the school officers in the discharge of their duties. Appropriate reference shall be made to the previous law that has been amended or changed, so as clearly to indicate such amendments or changes. He shall send to each county superintendent a number of copies sufficient to supply the school officers of the county with one copy each.

§ 4. BIENNIAL REPORT.] On or before the 31st day of December preceding each regular session of the legislature, he shall present a biennial report to the governor, which report shall show the conditions and needs of the public schools throughout the state, and workings of the educational system of the state.

§ 5. SALE OR BARTER OF QUESTIONS FOR EXAMINATION A MISDEMEANOR.] It shall be his duty to prepare all questions for the examination of teachers by the county superintendents, and no county superintendent shall examine teachers with questions not thus furnished. Whosoever shall sell, barter or give away to applicants for certificates or to any other person, the questions prepared by the superintendent of public instruction to be used by the county superintendents in the examination of teachers, shall be deemed guilty of a misdemeanor, and on conviction [thereof] shall be fined [in] any sum not less than \$25.00 or more than \$100.00.

§ 6. ASSISTANT OR DEPUTY SUPERINTENDENT—SALARY OF.] He shall have power to appoint one assistant or deputy who shall receive a salary of \$1,200 and shall perform such duties pertaining to the office as the superintendent may direct.

§ 7. COUNTY INSTITUTES TO BE HELD.] He shall appoint a county normal institute to be held in organized counties each year, between the first day of June and the fifteenth day of September in each year, to remain in session not less than two weeks, at the close of which institute a public examination of teachers shall be held. The time and place of such institute shall be determined by the county superintendent of schools, and notice of the same shall be given to the superintendent of public instruction at least thirty days before the time of holding such institute, of the time and place selected by him. For defraying the expenses thereof there is hereby allowed the sum of fifty dollars annually for one institute in each county held as aforesaid, which the state superintendent shall transmit to the county superintendent.

§ 8. COUNTY INSTITUTE CONDUCTORS.] He shall on or before March 1st in each year, prepare and send to each county superintendent a list of names of institute conductors, and county superintendents shall engage conductors for their county normal institute, from the list sent by the superintendent of public instruction.

§ 9. BLANKS TO BE FURNISHED.] All the necessary blanks to be used in transacting the business between the county and state superintendent shall be supplied by the state superintendent. He shall also furnish each county superintendent with a book of forms for blanks not furnished by the state, and all blanks used in a district or county must correspond with the forms in said book.

§ 10. SALARY AND TRAVELING EXPENSES.] He shall receive such salary as is prescribed by law, and also \$300.00 per annum for traveling expenses. The traveling and expense account, and the certified bills for necessary office expenses and for the printing of such blanks, reports, etc., as are required by law, shall be paid on the warrant of the state auditor.

§ 11. STATE CERTIFICATES.] He shall have power to grant state certificates and state diplomas. He shall keep a full record of all examinations for state certificates and diplomas and carefully file in his office all papers relating thereto. The names of all persons to whom certificates or diplomas are issued, and the names of all persons applying for the same shall be preserved with a report of the action in the case.

§ 12. EXAMINATION FOR STATE CERTIFICATES.] Examinations for state certificates and state diplomas shall be held by the superintendent of public instruction at least twice each

year at such time and place as he may select as will best accommodate the teachers of the state.

§ 13. REQUIREMENTS FOR STATE CERTIFICATES.] A state certificate shall be valid for five years, authorizing the person to whom it is issued to teach in any of the common schools in the state, including those in the cities and towns, for the period of five years aforesaid. Candidates for state certificates shall present satisfactory evidence of three years' successful experience, such evidence to be genuine and reliable and from disinterested persons. They shall pass a satisfactory examination in each of the following branches: Algebra, geometry, natural philosophy, physiology and hygiene, drawing, civil government, didactics, general history and American literature. The character of the papers submitted in examination shall determine the candidate's knowledge of English grammar, orthography and penmanship. The possession of a good moral character shall be deemed a necessary requisite in every candidate and satisfactory recommendation to establish this shall be submitted by each candidate. Any graduate of either of the normal schools of the state shall upon the presentation of his, or her, diploma, be entitled to receive such state certificate.

§ 14. STATE CERTIFICATE TO BE RENEWED.] Any person securing two successive five year state certificates shall be entitled to a renewal of the latter upon presentation of his certificate and evidence of continued employment and successful experience in the business of teaching.

§ 15. STATE DIPLOMA—REQUIREMENTS FOR.] A state diploma shall be valid for life and shall authorize the holder thereof to teach in any of the public schools of the state. The requirements for a state diploma shall be as follows:

First. The candidate must present the diploma of the institution of which he is a graduate, with a copy of the course of study therein taught, or he must pass examination in such branches as will be selected by the superintendent of public instruction.

Second. He must present ample proof that he has had ten years' successful experience as a teacher.

Third. He must pass a satisfactory examination in the science and art of education. This shall be more or less extensive as the candidate is or is not a graduate of some reputable normal school.

Fourth. He must pass an examination in one branch selected by him from the following: Geometry, trigonometry, astronomy, chemistry, zoology and geology. He must also pass an examination in one branch selected by him from the following: English literature, rhetoric, general history, political economy, psychology.

Fifth. He must write a thesis of not less than 3,000 nor more than 5,000 words upon some special topic embraced in one of the branches in which he is examined. His thesis the superintendent shall submit to two persons of acknowledged ability to review.

Sixth. All papers submitted must show a correct and intimate knowledge of English.

Seventh. He must be recommended by persons of liberal education, disinterested and having full knowledge of his experience.

Eighth. He must submit a thesis in his own handwriting upon some professional subject chosen by the superintendent.

Ninth. He must submit evidence of a good moral character.

§ 16. FEE FOR CERTIFICATE.] Each applicant for a state certificate shall pay a fee of five dollars, and each applicant for a state diploma shall pay a fee of ten dollars. All fees thus collected, except necessary expenses, shall be paid by the superintendent into the state treasury, [which] shall constitute the state teachers' reading circle fund, and shall be subject to his order for that purpose. *Provided*, That should an applicant fail in said examination, one-half of the fee shall be returned.

§ 17. SUPERINTENDENT MAY REVOKE STATE CERTIFICATE.] The superintendent of public instruction shall have power to revoke any state certificate or diploma for any cause that would have prevented its issue.

CHAPTER II.

COUNTY SUPERVISION.

§ 1. COUNTY SUPERINTENDENT—DUTIES OF.] The county superintendent of schools shall be charged with the general supervision of the schools of his county. He shall visit each school in his county as frequently as possible, at least once each school year, correcting any deficiency that may exist in the government of the school, in classification of the pupils, or in methods of instruction in the several branches taught; make such suggestions in private as he shall deem proper and necessary for the welfare of the school; note the character and condition of the school house, furniture, apparatus and grounds, making such suggestions to the district officers as will, in his opinion, improve the same. He shall keep a complete record of his official acts, a record of the name, age and postoffice address of each candidate for a certificate to teach, the standing in each study, and the grade, date of issue, and expiration of each certificate granted. He shall keep on file the papers of each candidate for a certificate, at least for the period for which

a certificate is granted. He shall keep a register of the teachers employed in his county, giving name of teacher, district in which employed, dates of opening and closing terms, salary per month, grade of certificate, and date of superintendents visits. He shall keep a record of all apportionments of the state and county school fund, and such other statistical records as shall be required in making reports to the superintendent of public instruction. In addition to his annual report, he shall, whenever called upon by the superintendent of public instruction, make such special report as may be required.

§ 2. TO ENCOURAGE TEACHERS' INSTITUTES.] The county superintendent of schools shall encourage teachers' institutes and associations, and shall labor in every practicable way to elevate the standard of teaching, urge the continued employment of successful and efficient teachers, and prevent, by all proper means, the employment of those who are incompetent and inefficient, and seek to make the employment of all teachers by officers a responsible public duty, for the public advantage only and to be free from favor and sectarian interest.

§ 3. COUNTY SUPERINTENDENT PRESIDENT OF COUNTY BOARD OF EDUCATION.] The county superintendent of schools shall be a member ex-officio of the county board of education, and its president.

§ 4. COUNTY TEACHERS' EXAMINATIONS—WHEN HELD.] On the first Friday of February, May, October and December of each year, the county superintendent shall examine persons offering themselves as teachers for the public schools, at least two of which examinations shall be held at the county seat, notice of which examination shall be duly published in the newspapers of the county. Candidates for second grade certificates shall pass examination in orthography, reading, writing, arithmetic, geography, English grammar, physiology, hygiene, and history of the United States. Candidates for first grade certificates shall pass examination in the above branches and also in civil government, didactics, elementary book-keeping and current events. *Provided*, That a candidate may not be required to pass examination in any second grade branch of study in which his standing at his last previous examination was above ninety per cent. The ratio of correct answers compared with the per centum established by the superintendent of public instruction, for the granting of certificates, all evidence disclosed by the examination and the superintendent's personal knowledge of the candidate's ability to teach and govern, shall be the reasons for granting or refusing a certificate to any applicant. *Provided*, That no person shall be granted a certificate who does not possess a good moral character. If attendance upon the regular examination works a great hardship by reason of illness or other equally serious hindrance to any teacher,

the county superintendent may grant such teacher permission to teach until the time of the next examination, subject to rules and regulations prescribed by the superintendent of public instruction.

§ 5. GRADES OF COUNTY CERTIFICATES.] County certificates shall be of two grades; the first grade to be valid for a term of two years, the second grade for one year. No certificate shall be issued to any person under seventeen years of age and no person shall be employed to teach in any of the schools of the state who is not the holder of a lawful certificate, or of such permit from the county superintendent as is provided for in the preceding section. All contracts made in violation of the provisions of this section shall be void. No person shall be entitled to receive a first grade certificate more than three times in succession, except by permission of the county superintendent; and no person shall receive more than four second grade county certificates in any case whatever.

§ 6. COUNTY SUPERINTENDENT MAY REVOKE CERTIFICATE.] The county superintendent is authorized and required to revoke at any time, a certificate granted by him or his predecessor for any cause which would have authorized or required him to refuse to grant it, if known at the time it was granted, and for incompetency, immorality, intemperance, crime against the state law, cruelty, general neglect of the business of the school, or for refusal or neglect to attend a teachers' institute after due notice; and the revocation shall terminate the employment of such teacher in the school where he or she may be at the time employed, but the teacher must be paid up to the time of receiving notice of such revocation. The superintendent must at once notify the district board by whom the teacher is employed of such revocation, and at the same time shall notify the teacher. The county superintendent must enter his action in such case of revocation in the books of his office. In revoking a certificate, the county superintendent may act upon his personal knowledge or upon competent evidence obtained from others. In the latter case action shall be taken after a fair hearing, and the teacher must be notified of the charge and given an opportunity to make a defense at some time and place stated in said notice. Upon his own knowledge the superintendent may act immediately without notice.

§ 7. COUNTY INSTITUTE—INSTITUTE FUND—HOW SECURED.] The county superintendent shall hold annually a normal institute for the instruction of teachers and those who desire to teach and [he] shall procure such assistance in addition to the conductor as may be necessary successfully to conduct said institute. To defray the expenses of the institute he shall require the payment of a registration fee of one dollar from each person attending the normal institute, and he shall also require

in all cases the payment of one dollar from every applicant for a certificate. He shall, quarterly, and at the close of each institute, transmit to the county treasurer all money so received, including the state appropriation for institutes, to be designated the institute fund, together with the name of each person so contributing, and the amount. All disbursements of the institute fund shall be upon the order of the county superintendent, and no order shall be drawn except for bills presented to the county superintendent and approved by him, for services rendered or expenses incurred in connection with the normal institute.

§ 8. COUNTY SUPERINTENDENTS TO CONFORM TO INSTRUCTIONS OF SUPERINTENDENT OF PUBLIC INSTRUCTION.] The county superintendent shall at all times conform to the instructions of the superintendent of public instruction as to matters within the jurisdiction of the latter. He shall serve as the medium of communication between the superintendent of public instruction and the district officers. He shall transmit to district officers and teachers all blanks, circulars and communications addressed to them.

§ 9. SALARY OF COUNTY SUPERINTENDENT.] The county superintendent shall receive a salary payable quarterly, and to be determined as follows: For the first thousand inhabitants he shall receive two hundred (200) dollars; for each additional thousand inhabitants or major fraction thereof he shall receive one hundred (100) dollars. For the purpose of determining the number of inhabitants in any county, the total vote of said county, at the preceding general election, shall be multiplied by five. *Provided*, That he shall not receive more than fifteen hundred (1500) dollars in any county, nor any other compensation, and *Provided further*, That he shall sign his name in the attendance register in each school he visits. He shall also carry a record book of such visits, which record shall be signed by the teachers of the schools visited by him, and there shall be deducted from his salary warrant for the quarter ending December 31, of each year the sum of ten (10) dollars for each and every school under his direct supervision and not visited by him during such year.

§ 10. COUNTY SUPERINTENDENT MAY CLOSE SCHOOL.] The county superintendent shall have power to close any school under his supervision on account of contagious disease or for other good and sufficient cause known to him.

§ 11. TO ENCOURAGE "TEACHERS' READING CIRCLES." It shall be the duty of the county superintendent to encourage the formation of teachers' reading circles in his county.

§ 12. AUTHORITY OF SUPERVISION WITHHELD FROM COUNTY SUPERINTENDENT.] It shall be the duty of the county superintendent of schools to visit all the schools of independent

districts and in towns having less than one thousand inhabitants, he shall have the authority of direct supervision, but in case of cities and towns of more than one thousand inhabitants the county superintendent shall not have the authority of supervision.

§ 13. COUNTY CERTIFICATE NOT REQUIRED.] In cities and other independent districts, persons exclusively engaged in teaching music, drawing, penmanship, book-keeping, foreign languages or kindergarten methods, etc., shall not be required to hold a county certificate.

§ 14. COUNTY SUPERINTENDENT TO EXAMINE ACCOUNTS.] It shall be the duty of the county superintendent to examine from time to time the accounts of the district officers and to advise them as to the proper form for keeping such accounts. Should any such officer fail to make his report according to law and at the time required, the county superintendent is authorized to procure the same by examination of the records, files and accounts of such officer for the purpose of obtaining such information.

§ 15. VACANCY—HOW FILLED.] 'When the office of county superintendent shall become vacant by death, resignation, removal or otherwise, the county board of commissioners shall fill the vacancy by appointment, and the person so appointed shall hold his office until the next election of county officers.

§ 16. DUTIES OF COUNTY SUPERINTENDENT RELATIVE TO LEASING SCHOOL LANDS.] The county superintendent shall perform such duties relative to the leasing, appraising, and selling of the school lands of his county as may, by statute be prescribed.

§ 17. COUNTY SUPERINTENDENT MAY REQUIRE NEW BOND.] The county superintendent may at any time require a new or additional bond from the district treasurer, whenever it may be deemed necessary by him, or upon the failure, death or removal from the county of any one of the sureties. All such bonds shall be filed with the district clerk, and in case of the breach of any condition thereof, the county superintendent shall cause an action to be commenced and prosecuted thereon in the corporate name of the school district, and all money so collected shall be paid into the county treasury to be applied to the use of the schools of said district. If the county superintendent either fail or refuse to bring such action upon the breach of the bond, then any taxpayer of the district may cause such action to be commenced; and the necessary expenses of such action shall be paid, unless otherwise ordered by the court, out of the county treasury from the funds apportioned to said district.

§ 18. COUNTY SUPERINTENDENT MAY ADMINISTER OATH.] The county superintendent shall have power to administer oaths

of office to all subordinate school officers, and to certify to the same.

§ 19. COUNTY SUPERINTENDENT TO QUALIFY AND EXECUTE BOND.] The county superintendent shall qualify on or before the first Tuesday in January of the year following the one in which he is elected by taking the proper oath of office and executing a bond in the sum of five hundred dollars, with two or more sureties to be approved by the board of county commissioners. The oath shall be subscribed upon the back of the bond which shall be filed with the county auditor. The sureties of such bond shall be bound jointly and severally and upon it an action or actions may be maintained by the board of county commissioners for the benefit of the district, or person or fund injured by the breach of condition thereof.

§ 20. BOOKS AND DOCUMENTS DEEMED PUBLIC PROPERTY.] The county superintendent may provide at the county seat a suitable office for the transaction of business, when not provided by the board of county commissioners, and they shall allow accounts for all necessary expenditures for the use and furnishing of said office and for necessary stationery and printing. All books and pamphlets, circulars of information and other publications from the bureau of education of the United States, and all official publications of this state, and other public documents and books relating to education, officially received by him, shall be deemed public property, shall be kept in his office, and, with other public property and records, delivered to his successor. He shall furnish the board of county commissioners with such statistics relating to the schools of the county and the officers thereof as they shall desire and as shall enable them to perform their duties correctly.

§ 21. SCHOOL CENSUS.] For the purposes of this act, all children in the state between the ages of six and twenty years, shall be considered of legal school age; and the county superintendent shall, on or before the first day of July of each year, report to the commissioner of school and public lands the enumeration of persons in his county of school age, such enumeration to be based upon the annual census taken by the district clerks of his county.

§ 22. REPORT OF COUNTY SUPERINTENDENT.] The county superintendent shall, on or before the first Monday of September of each year make a report to the superintendent of public instruction, containing a full abstract of the reports made to him by the district officers and such other matters as he shall be directed to report by the said superintendent, and as he himself may deem essential in exhibiting the true condition of the schools under his charge. Should he fail to make such report, he shall forfeit to the school fund of his county the sum of one

hundred dollars, and shall, besides, be liable for all damages caused by such neglect.

§ 23. APPEAL FROM DECISION OF DISTRICT BOARD—METHOD OF PROCEDURE.] Any person aggrieved by any decision or order of the district board, in matters of law or of facts, may within thirty days after the rendering of such decision or the making of such order, appeal therefrom to the county superintendent of his county. The basis of the proceeding shall be an affidavit filed by the party aggrieved, with the county superintendent within the time for taking the appeal. The affidavit shall set forth the error complained of in a plain and concise manner. The county superintendent shall, within five days after the filing of such affidavit in his office, notify the district clerk in writing, of the taking of such appeal. And the latter shall, within ten days after being thus notified, file in the office of the county superintendent, a complete transcript of the records and proceedings relating to the decision complained of, which transcript shall be certified to be correct by the clerk.

After the filing of the transcript in his office, the county superintendent shall notify, in writing, all persons adversely interested of the time and place where the matter of the appeal will be heard by him. At the time thus fixed for hearing he shall hear testimony for either party and for that purpose may administer oaths if necessary, and he shall make such decision as may be just and equitable, which shall be final, unless appealed from as hereinafter provided.

§ 24. APPEAL FROM COUNTY SUPERINTENDENT TO SUPERINTENDENT OF PUBLIC INSTRUCTION—METHOD OF PROCEDURE.] An appeal may be taken from the decision of the county superintendent to the superintendent of public instruction in the same manner as provided in this chapter for taking appeals from the district board to the county superintendent, as nearly as applicable.

§ 25. COUNTY TREASURER TO COLLECT SCHOOL TAXES.] It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the other county taxes and state taxes are collected, and full power is hereby given him to sell property for school taxes, the same as is now provided by law for other taxes.

§ 26. TAXATION FOR SCHOOL PURPOSES.] The county commissioners shall at the time of making the annual assessment and levy of taxes, levy a tax of one dollar on each elector in the county for the support of the common schools, and a further general tax of two mills on the dollar upon all taxable property in the county to be applied to the same purpose, which shall, with the money received from the state, constitute and be known as the county general school fund, and they shall levy

such further tax upon the taxable property of each school district as the board thereof shall certify is required for the support of the schools of that district, which latter special tax when collected, shall be credited to the district to which it belongs, to be collected at the same time and in the same manner as prescribed by law for the collection of other county and state taxes. The county treasurer shall on the first Mondays in January, April, July and October, furnish the county superintendent with a statement of all money in the county treasury belonging to the county general fund, and shall pay the same upon the order of the superintendent to the treasurers of the respective public school corporations of the county. The county treasurer shall also pay, at least quarterly, to the treasurer of each school corporation all of the school money collected for such corporation, and shall take duplicate receipts for the money so paid. He shall send one of the receipts to the clerk of the school corporation.

§ 27. APPORTIONMENT OF SCHOOL MONEY.] The county superintendent shall on or before the second Mondays in January, April, July and October of each year apportion the money in the county treasury, belonging to the county general school fund, to the several public school corporations within the county, in proportion to the number of children of school age residing therein. He shall also draw orders on the county treasurer in favor of the several school treasurers of the county, for the amounts apportioned to them, and shall take their receipts therefore.

§ 28. MILEAGE.] The county superintendent shall receive ten cents per mile for every mile necessarily traveled in attending such meetings of county superintendents as may be convened by the state superintendent at any time.

§ 29. DISTRICT INSTITUTES TO BE HELD.] It shall be the duty of the county superintendent to hold district institutes during the school year, and he shall actively and earnestly promote the same. In holding said institutes he may group two or more districts in institute organization. Said institutes shall be held on Saturday and so arranged that the teachers in each district or group of districts shall have the benefit of such institutes at least twice during the school year.

§ 30. COUNTY SUPERINTENDENT PROHIBITED FROM HOLDING CERTAIN OFFICES.] The county superintendent shall not hold the office of county commissioner or school district officer.

§ 31. CLERK'S REPORT.] The clerk of each school district shall on or before the first day of August in each year, make, sign, transmit or deliver to the county superintendent a report in writing covering the preceding school year, and including all the facts and statistics of the school districts, which are required to be included in the county superintendent's report, and

in the same order therein required, except any item therein peculiar to the county, and not belonging to the district. He shall also report the branches studied in the graded and ungraded schools separately; the names and addresses of the district school officers, and the dates when their terms severally expire; and all other facts and statistics which the county superintendent may require for his report to the superintendent of public instruction. He shall also enumerate the number of children of legal school age, male and female, designating each separately, residing in the district, or parts of districts, on the first day of May previous to the date of such report, and shall make such report on or before the first Monday in June of each year.

§ 32. TREASURER'S REPORT.] On or before the last Tuesday in July of each year, the treasurer of each school district shall make, sign and deliver to the clerk of the same, and deliver or transmit to the county clerk, a report in writing, which shall cover all the financial accounts and transactions of the school district for the preceding school year.

CHAPTER III.

SCHOOL CORPORATIONS.

§ 1. SCHOOL DISTRICTS.] In all counties organized for school purposes under the district system, at the taking effect of this act, each school district shall be and remain a district school corporation, and each civil township in every county in the state, not organized for school purposes under the district system at the taking effect of this act, shall be and is hereby constituted a district school corporation. Each township in every county in the state, which at the taking effect of this act, consists of territory not organized into a civil township, shall be and remain a district school corporation. *Provided*, Whenever such school township shall be organized into or annexed to a civil township, such civil township shall thenceforth constitute a district school corporation. *Provided, further*, nothing in this act shall be construed to alter the boundary lines of any school district or of any school township organized prior to the passage of this act except upon petition as hereinafter provided.

§ 2. BOUNDARIES OF NEWLY ORGANIZED SCHOOL DISTRICTS.] In any county hereafter organized, the county commissioners shall divide the county, or the settled portions thereof into school districts. In the formation of such districts, and the arrangement of their boundaries as provided for in this section, the boundary lines of civil townships shall be made the boundaries of the districts. *Provided*, That no dis-

trict shall be thus formed in which there are not at the time of its formation, at least ten children of legal school age.

§ 3. SUBDIVISION OF TOWNSHIP DISTRICTS.] In any county containing township districts such districts may be subdivided as follows:

1. Upon a receipt of a petition signed by a majority of the qualified electors of any township district in such county, the board of county commissioners and the county superintendent of schools shall divide such township district into new districts containing one school each, which districts shall be as nearly uniform in size as the convenience of the residents and the permanent interests of the schools will permit.

2. The county commissioners and the superintendent shall also make an equitable apportionment of the property and indebtedness (other than bonded) of the township district among the new districts formed therefrom. *Provided*, That should there be any bonded indebtedness outstanding against the township district, the county commissioners shall levy a tax annually on the property of the new districts formed therefrom sufficient to pay the interest and principal of bonds as the same become due. The county treasurer shall apply such tax to the payment of said bonded indebtedness, and when the bonds are paid and cancelled the county treasurer shall place the unused balance, if there be any, of such tax to the credit of the districts.

3. Upon the receipt of a petition signed by a majority of the qualified electors of any civil township in said county having districts smaller than civil townships, the county commissioners and the county superintendent of schools, shall declare that the school district shall comprise the civil township, and they [he] shall appoint the necessary officers (as hereinafter provided in section 1 of chapter 5 of this act) who shall hold until the next election. *Provided*, That in the union of said minor districts all indebtedness shall be adjusted as provided for in paragraph 2 of section 3.

Alternative to Section 3.

SUBDIVISION OF TOWNSHIP DISTRICTS.] In any county containing township districts, such districts may be subdivided as follows:

1. Petitions for such division, signed by not less than one-third of the resident taxpayers of each commissioner district in the county as shown by the county assessor's books, shall be presented to the board of county commissioners on or before their regular October meeting, preceding the first general election subsequent to this act. The county commissioners shall thereupon give due notice that the question of such division will be submitted to the electors of the county at said general election. The county commissioners shall also cause to be

printed and distributed at the different polling places in the county, ballots which shall read as follows:

For division of school townships, Yes.....No.....

2. If a majority of the votes cast at the election are in favor of division, the board of county commissioners and county superintendent of schools shall divide the township district of the county into districts containing one school each which shall be as nearly equal in size as the convenience of the residents and the permanent interests of the schools will permit. The commissioners and superintendent shall also make an equitable apportionment of the property and indebtedness (other than bonded) of each township district among the new districts formed therefrom. *Provided*, That should there be any bonded indebtedness outstanding against any such township district the commissioners shall levy a tax annually on the property of the new district formed therefrom, sufficient to pay the interest and principal of the bonds as they become due. The county treasurer shall apply such tax to the payment of said bonded indebtedness and when the bonds are paid and cancelled the county treasurer shall place the unused balance, if there be any, of such tax to the credit of the districts.

§ 4. OFFICERS TO BE CHOSEN—WHEN.] In each new district formed as provided for in Section 3, the officers thereof shall be chosen at the annual school meeting following. The clerk of each original township district shall, at least ten days before said annual meeting, forward to the county auditor a certified statement of the finances of the township district including bonded and other indebtedness. The treasurer of each original township district shall also with in the same time turn over to the county treasurer all money belonging to said district, and such money shall be apportioned to the districts succeeding, as provided in Section 3 of this chapter.

§ 5. NAME OF SCHOOL DISTRICT.] Every school district which consists of a civil township shall be named the "—— school district, of —— county, State of South Dakota," with the name of the civil township inserted in the blank before the word school, and the name of the county in which it is situated inserted before the word county. Every school district consisting of territory not organized into a civil township, but which has been named by a distinctive name shall have such distinctive name inserted in the blank before the word school. Every school district consisting of territory not organized in a civil township, and which has no distinctive name shall be called "school district No.— of —— county" with its proper number inserted in the blank after the word number, and the proper name of the county inserted.

§ 6. CHANGE OF DISTRICT BOUNDARIES.] After the boun-

dary lines of the several school districts in a county are established as provided for in the preceding sections of this chapter, such boundaries may be changed by the board of county commissioners and the county superintendent of schools upon a petition for such change signed by a majority of the voters residing in the district which will be affected by such change, if in the judgment of the commissioners and the superintendent such change is for the best interests of the schools. *Provided*, That when petition is made for the formation of a district from parts of two or more counties, the commissioners of the said counties may, in their discretion, appoint a joint commission to establish the boundaries of the proposed district and to adjust all accounts relating thereto. Whenever district boundaries shall be changed under the provisions of this act, it shall be the duty of the county commissioners and county superintendent to make an apportionment of property and indebtedness as provided in Section 3 of this chapter.

§ 7. CORPORATE POWERS OF SCHOOL DISTRICT.] Every school district established under the provisions of this act, shall be and is hereby constituted a distinct corporation for school purposes and under its own proper name or number of such corporation may sue and be sued, contract and be contracted with, and acquire, purchase, hold and use personal or real property for the purposes mentioned in this act and sell and dispose of the same.

§ 8. PLAT OF COUNTY TO BE TRANSMITTED TO SUPERINTENDENT OF PUBLIC INSTRUCTION AND COUNTY SUPERINTENDENT.] The county auditor shall within thirty days after the first school election held as provided herein, transmit to the superintendent of public instruction and to the county superintendent of schools a plat of the county, showing the boundaries and name of each school district therein. He shall also record a copy of the same together with all proceedings of the county board done under this act in a proper book kept for the purpose. He shall promptly furnish such officers with a corrected plat, showing any changes at any time in the boundaries of school corporations. The superintendent of public instruction shall furnish directions for the suitable preparation and construction of such plats in regard to the scale, markings, etc., in order to secure a uniform series of maps for binding for office use.

CHAPTER IV.

DISTRICT SCHOOL BOARD.

§ 1. SCHOOL BOARD—TERM OF OFFICE—VACANCY HOW FILLED.] On the third Tuesday in June, 1891, there shall be elected in each school district a school board

consisting of a chairman, clerk and treasurer for the terms of one, two and three years respectively, and annually thereafter one member of said board for the term of three years. Each officer elected under the provisions of this act shall qualify on or before the last Tuesday in July following his election, and shall hold his office for the number of years for which he is elected and until his successor is elected and qualified. Whenever a new school district shall be formed, the county superintendent of schools shall appoint temporary officers for such school district who shall serve until the first annual school election following and until their successors are elected and qualified. Whenever a vacancy may occur from any cause in any school office under the supervision of the county superintendent he shall also fill such vacancy by appointment.

§ 2. ELECTION TO BE BY BALLOT.] The election of school district officers shall be by ballot.

§ 3. ELECTORS.] All persons who are qualified electors under the general laws of the state shall be qualified to vote at any school district election.

§ 4. MEETINGS OF DISTRICT SCHOOL BOARD.] District school boards having under their control more than one school shall hold four regular meetings each year for the transaction of business, to-wit: On the last Tuesday in July, October, January and April, at such place and hour as may be fixed by the board. District school boards having under their control but one school shall meet annually on the last Tuesday in July. *Provided*, That in any school district where there is only one school, five legal voters may petition the clerk to call a special meeting of the voters at any time, and it shall be the duty of the clerk to call such meeting by posting notices, at least ten days prior to the time of meeting, in three of the most conspicuous places in the district, one of which places shall be the school house door. Said notices shall give the date, hour and object of the meeting.

§ 5. COMPENSATION OF CHAIRMAN OF SCHOOL BOARD.] The chairman shall preside at all meetings of the board, and shall perform such duties as usually pertain to such office and in accordance with the customary rules of order. In his absence a chairman pro tempore shall preside. The chairman shall perform such other duties as are prescribed in this act. He shall receive one (\$1.00) dollar for each quarterly meeting of the district board attended by him and two (\$2.00) dollars for the annual meeting of the county board of education if attended by him, and shall receive no other compensation for his services as district officer.

§ 6. CLERK OF BOARD—DUTIES OF.] The clerk of the board shall keep an accurate record of all proceedings of the board, give or post all notices. make out all reports and statements

and shall take a census of the children of legal school age in his district and report the same to the county superintendent on or before the first day of June in each year and perform all other duties required by law or by the order of the board.

§ 7. SCHOOL TREASURER'S BOND.] The school treasurer shall on or before the last Tuesday in July following his election, and before entering upon his duties, give a bond to the school district conditioned that he will honestly and faithfully discharge his duties as treasurer, that he will render a true account of all funds and property that shall come into his hands, and pay and deliver the same according to law. Such bonds shall be in such penal sum as may be fixed by the board, but not less than double the sum as nearly as can be ascertained to come into his hands in any one year, shall be signed by two or more sufficient sureties, and shall be approved by the school board. In case the school board neglect or refuse to approve the bond of the district treasurer and the sureties thereto, such treasurer may present the same to the county superintendent and serve notice thereof upon the board, and due proof of such notice being made to the county superintendent he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond and sureties thereto, and may approve the same, and such approval shall be in all respects valid.

§ 8. SCHOOL TREASURER—DUTIES OF.] The school treasurer shall keep such accounts and make such reports as are required of him by law. He shall pay no money out of the school funds in his hands except upon the warrant of the school board, signed by the clerk and countersigned by the chairman. He shall pay all warrants properly drawn and signed when presented so long as there is any money in his hands or subject to his order for their payment. And shall draw all money in the hands of the county treasurer belonging to his district, at least once every three months in each year.

§ 9. DISPOSITION OF WARRANTS WHEN THERE IS NO MONEY IN TREASURY.] Whenever a warrant is presented to the treasurer for payment and there is no money in his hands or subject to his order for the payment of such warrant, he shall endorse on such warrant "Presented for payment thisday of.....18....and not paid for want of funds," and sign such endorsement. If he has in [his] hands or subject to his order, money for the part payment of such warrant, he shall make such part payment and endorse the sum on the warrant and add "balance not paid for want of funds," signing the same. He shall keep a correct register of all warrants so presented and endorsed. Every warrant thus presented and endorsed shall draw interest for the amount unpaid at seven (7) per cent per annum until paid. *Provided, That whenever there shall come into the hands of the Treasurer or*

subject to his order, money applicable to the payment of any warrant which has been so presented and registered, the treasurer shall notify in writing by mail the drawee of such warrant at his last known place of residence to present such warrant for payment, and interest shall cease upon every such warrant ten days after such notice shall have been sent and such money shall be held for the payment of such warrant.

§ 10. WARRANT SHALL SPECIFY WHAT.] Every warrant drawn by the clerk of the district board on the district treasurer, shall specify the purpose for which the money is paid, the fund on which it is drawn, and the person, firm or corporation to whom paid. *Provided*, that no warrant shall be issued except for an indebtedness incurred prior to its issue.

§ 11. OFFICIAL OATHS AND BONDS TO BE FILED—WHEN.] All official oaths and bonds of school district officers shall be filed with the district clerk, who shall immediately certify to the county superintendent and to the county auditor the fact of such oaths and bonds being filed.

§ 12. SALARY OF DISTRICT CLERK AND TREASURER.] The district clerk and treasurer shall each receive as salary \$2.50 per annum for every school in the district.

§ 13. FORFEITURE OF SALARY.] Any failure on the part of the clerk or treasurer of the district to perform the duties required in the foregoing sections of this act shall forfeit the salary prescribed therein.

CHAPTER V.

POWERS AND DUTIES OF THE DISTRICT SCHOOL BOARD.

§ 1. POWERS AND DUTIES.] The district school board shall have the general charge, direction and management of the schools of the district, and the care, custody and control of all the property belonging to it, subject to the provisions of this act. They shall organize, maintain and conveniently locate schools for the education of the children of school age within the district or change or discontinue any of them according to law. They shall make all necessary repairs to the school houses, outbuildings and appurtenances, and shall furnish fuel and all necessary supplies for the schools. They shall employ the teachers of the schools of the district; and may dismiss any teacher at any time for plain violation of contract, gross immorality or flagrant neglect of duty. *Provided*, That every contract for the employment of a teacher must be in writing. They shall have power to admit to the schools in the district,

pupils from other districts, when it can be done without injury or overcrowding such schools, and make regulations for their admission and the payment of their tuition. They shall have power to arrange with the board of an adjacent district for sending to such district such pupils as can be conveniently taught therein and for paying their tuition therein. They shall also have power to make proper and needful rules for the assignment and distribution of pupils to and among the schools in the district and [for] their transfer from one school to another. They shall assist and co-operate with teachers in the government and discipline of the schools. And may make proper rules and regulations thereof. They may suspend or expel from school any pupil insubordinate or habitually disobedient. *Provided*, such suspension shall not be for a longer period than ten days, or such expulsion not beyond the end of the current term of school. They shall have power to levy upon the property in the district a tax for school purposes of not exceeding twenty (20) mills on the dollar in any year, which levy shall be made by resolution of the board at their regular July meeting. The clerk shall immediately thereafter notify, in writing, the county auditor of the amount so levied. The board shall have power and on demand of a majority of the qualified electors of the district, it shall be the duty of the board to provide for having such extra branches of study added to the regular course as may be desired by said electors.

§ 2. ELECTORS TO INSTRUCT SCHOOL BOARD TO LEVY TAX.] In every district containing but one school a majority of the qualified electors thereof shall, at any regularly called district school meeting, have authority to instruct the district school board concerning the management of the school, and to levy taxes for the maintenance of the same. *Provided*, That such taxes shall be levied before August 1, in each year, and shall not exceed two per cent of the taxable property in the district. There shall be at least four months school held in each district every year. In case of failure in any district to levy a sufficient tax to support a school for the number of months above named, the board of county commissioners shall levy a tax on the property of that district that will be sufficient for the purpose. *Provided*, That such tax shall not exceed two per cent of the taxable property in the district.

§ 3. DUTIES OF DISTRICT CLERK.] It shall be the duty of the district clerk on or before the fifteenth day of August, in each year, to notify the county auditor of the amount of tax voted at the last annual meeting or levied by the district school board, and of any and all other tax of which notice has not previously been given. The notice shall be substantially in the following form:

District clerk's office, School district No.
..... County, South Dakota.
..... 189....
To the county auditor of county, South Da-
kota:

SIR:—You are hereby notified that at a
meeting of District No. held on the day
of 189...., at the following tax was
voted:

For tuition fund mills.
For general fund mills.
For sinking fund mills.
Total mills.

Signed,

..... District Clerk.

§ 4. TUITION FUND, SINKING FUND AND GENERAL FUND
—HOW CONSTITUTED—ACCOUNTS—HOW KEPT.] All moneys
apportioned by the county superintendent to the district or re-
ceived from the district tax for tuition purposes, shall consti-
tute the tuition fund. All moneys received from other sources,
except from tax for sinking fund, shall constitute the general
fund. The treasurer shall keep one general account wherein
shall be set down on the debit side all the money he shall re-
ceive as treasurer from all sources whatever, each item of en-
try showing plainly the source of the particular payment to
him, with the date thereof, and he shall set down upon the credit
side all the money he shall pay out for all purposes whatever,
each item thereof showing to whom and for what purpose each
payment was made, with the date thereof. The total of the
debit side shall always be balanced by the total of the credit
side, with the funds on hand added thereto. At the beginning
of every school year he shall open such accounts anew for that
year, and the first item shall be an entry on the debit side of
the balance on hand, if any from the preceding year. He shall
also keep a separate set of accounts of different classes of re-
ceipts and expenditures, showing severally the following:

RECEIPTS.

Amount received into the tuition fund from all sources
Amount received into the general fund from all sources
Amount received into the sinking fund from all sources

EXPENDITURES.

Amount paid for tuition
Amount paid for school houses, sites and furniture
Amount paid for incidental expenses
Amount paid as interest on bonds

Amount paid upon debts and liabilities not included in other items.....

These several accounts shall be separately kept, and not required to balance. The accounts for different classes of receipts shall be kept separately from the accounts for the different classes of expenditures, but every entry in each shall fully and clearly designate its source or purpose, with the dates.

§ 5. PURCHASE OR LEASE OF SCHOOL SITE.] The district board shall purchase or lease such site for a school house as shall have been designated by voters at a district meeting in the corporate name thereof, and shall build, hire or purchase such school house as the voters of the district, in a district meeting, shall have agreed upon, out of the funds provided for that purpose, and make sale of any school house, or other property of the district, and if necessary execute a conveyance of the same in the name of the district when lawfully directed by the voters of such district at any regular or special meeting, and shall carry into effect all lawful orders of the district.

§ 6. SCHOOL SITE MAY BE TAKEN WITHOUT OWNERS CONSENT.] It shall be lawful for any board of district officers to take and hold any land not exceeding two acres, legally chosen as a school house site by a lawful district meeting. If the owner of such land refuse or neglect to grant such site to the district, or cannot be found, the superintendent of that county shall upon application, appoint three disinterested persons of said county, unless a smaller number is agreed upon by the parties, who after taking an oath to faithfully and impartially perform the duties imposed on them by this section, shall inspect said real estate and assess the damages said owner will sustain by taking the same for school purposes. (written notice having been previously given to the owner of the time of appraising) and said assessors shall file their written report with the county superintendent, giving the exact description of the land and the amount of damages assessed. If said school board shall, before taking said land for school purposes, deposit with the county treasurer for the use of said owner, the amount of money so assessed as damages, they shall be thereby authorized to build a house thereon in the name of the district and maintain the right to said premises. *Provided*, That appeal from said assessment may be taken within twenty days by either party to the circuit court; and, *Provided*, That no site shall be thus taken within forty rods of any residence, [when] the owner whereof [thereof] objects to its being placed nearer, and not in any orchard, garden or public park. But this section shall not apply to any incorporated town.

§ 7. TITLE TO REVERT TO ORIGINAL OWNER.] The title acquired to such school site shall be for such purpose only, and if not used for such purpose of maintaining a public school

thereon for two successive years, the title shall revert to the original owner, upon repayment of the sum paid, with value of improvements made by the district, without interest.

§ 8. ENGLISH LANGUAGE TO BE TAUGHT.] All reports and records of district officers and proceedings of district meetings shall be in the English language, and if any money belonging to any district shall be expended for supporting a school in which the English language shall not be taught exclusively, the county superintendent or any taxpayer of the district, may in civil action in the name of the district, recover said money from the officer so expending it.

§ 9. CLERK MAY BE APPOINTED.] The district clerk shall be clerk of all district meetings, but if such clerk shall not be present, or being present shall refuse to act at such district meeting, the voters present may appoint a clerk for such meeting who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

§ 10. DICTIONARY AND APPARATUS TO BE SECURED.] The district board shall provide for the school one Webster's International Dictionary, and such other books and apparatus as they may deem for the best interest of the school. *Provided*, said board are authorized so to do by the electors of such district at an annual meeting.

§ 11. WARRANTS TO BE DRAWN BY CLERK—WHEN.] The clerk shall draw and sign all warrants for the payment of money legally ordered by the board, and every such warrant shall be countersigned by the chairman of the board. No warrant shall be drawn by the clerk except upon presentation of a bill for the service rendered, duly certified, and the same shall be retained by him as a voucher and placed on file in his office.

CHAPTER VI.

TEACHERS.

§ 1. TEACHERS—HOW EMPLOYED.] Teachers shall be employed only upon the exhibition of the certificate valid in the county where employed, and then only upon a written contract signed by the teacher and at least two members of the district school board which shall specify the date at or about which the school shall begin, the length of time it shall continue, the wages per month and the time of payment thereof; and said contract shall be signed in duplicate and one copy filed in the office of the clerk and the other retained by the teacher. The following conditions shall be understood as forming a part of every such contract whether expressed therein or not.

1. The teacher shall not hold school upon a legal holiday, but such days shall count as part of the term and the teacher shall be paid therefor, but such pay shall not be drawn for any Saturday or Sunday.

2. School shall be adjourned during the session of the county normal institute, when the teachers have been notified by the county superintendent, and the teacher shall draw pay for and have counted as a part of the term one half day for every day's actual attendance upon the institute as certified by [the] conductor of the institute or county superintendent.

3. Teachers shall receive into their schools pupils transferred thereto by order of the district board or admitted by its authority.

4. The teacher shall send the notices, keep the proper entries in the register and make the reports required by law; and the school corporation shall promptly furnish without cost to the teacher the blank forms for such reports and furnish for use a proper register prepared so that the required facts and statistics can be kept in an orderly manner.

§ 2. SCHOOL REGISTER TO BE SUPPLIED.] The clerk of every school district shall provide one suitable school register for each school therein and keep the same as a part of the records of his office, except during each term of school, when the teacher shall keep said register and record therein each day the attendance of each pupil and the absence of those enrolled, and all other items necessary for making the report in the next section required.

§ 3. TEACHERS—TO MAKE REPORTS.] Every teacher of a common school under this law, shall at the expiration of each term, immediately make out full duplicate reports, and deliver one copy thereof with the register to the school clerk and one to the county superintendent. Such report shall show the names, ages and sex of all pupils admitted during such term, the branches taught, the studies pursued by each pupil, the text books used, the number of days taught, the number of days each pupil was present, the average daily attendance, the date when school began and ended, the salary per month, including board, and information concerning the school and property, and until such reports shall have been so filed with the clerk, the school board shall not pay more than ninety per cent of the wages for such teacher for his or her services as such for the time required to be covered by such report.

§ 4. NOTICE OF OPENING AND CLOSING OF SCHOOLS.] Every teacher on commencing a term of school, shall give written notice to the county superintendent of the time and place of beginning such school, and the proper time when it will end.

§ 5. DISTURBANCE OF PUBLIC SCHOOL—PUNISHMENT THEREFOR.] Every person, whether a pupil or not, who shall wilfully molest or disturb a public school when in session, or who shall wilfully interfere with and interrupt the proper order or management of a public school, by acts of violence, boisterous conduct, or threatening language, so as to prevent the teacher or any pupil from performing their duty, shall, upon conviction thereof be punished by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail not more than ten days or by both such fine and imprisonment.

§ 6. THREAT AGAINST TEACHER—PUNISHMENT THEREFOR.] If any parent, guardian, or other person, from any cause, fancied or real, in the presence of a school, whether at intermission, recess, during its sessions or before or after the day's session, shall upbraid, insult or threaten the teacher of such school such person upon conviction thereof shall be punished by a fine not exceeding \$25.00.

§ 7. BIBLE MAY BE READ.] The Bible may be read in any public school without sectarian comment by the teacher of said school.

CHAPTER VII.

COMPULSORY EDUCATION.

§ 1. DUTY OF PARENT OR GUARDIAN—PUNISHMENT FOR NEGLECT.] Every person having under his control a child between the age of eight and fourteen years, shall annually cause such child to attend for at least twelve weeks, at least six weeks of which attendance shall be consecutive, some public day school in the city, town or independent district in which he resides, which time shall commence with the beginning of the first term of the school year or as soon thereafter as due notice shall be served upon the person having such control, of his duty under this act. For every neglect of such duty the person offending shall forfeit to the use of the public schools of his school corporation a sum not less than ten nor more than twenty dollars, and shall stand committed until such fine and cost of suit are paid. But if the person so neglecting shall show to the board of education or district school board, as the case may be, that such child has attended for a like period of time a private day school, or that instruction has otherwise been given for a like period of time to such child in the branches commonly taught in a public school, that such child has already acquired the branches of learning taught in the public school, or that his physical or mental condition as declared by a competent physician is such

as to render such attendance inexpedient and impracticable, then such penalty shall not be incurred. Such fine shall be paid when collected to the county treasurer or the treasurer of such city or independent district in which such child and parents reside, to be accounted for by him as other money raised for school purposes.

§ 2. DUTY OF PRESIDENT OR CHAIRMAN OF SCHOOL BOARD—DUTY OF TEACHER.] It shall be the duty of the president of the board of education in every city or other independent district, and the chairman of every district school board, carefully to inquire concerning all supposed violations of this act and to enter complaint against all persons who shall appear to be guilty of such violation. It shall also be the duty of said officers to arrest children of school going age who habitually haunt public places and have no lawful occupation, and also truant children who absent themselves from school without leave, and to place them in charge of the teacher having charge of the public school which said children are by law entitled to attend. And it shall be the duty of said teacher to assign such children to the proper classes, and to instruct them in such studies as they are fitted to pursue. Any school officer failing or neglecting to perform the duty required of him by this chapter shall be liable to a fine of not less than ten nor more than twenty dollars for every such offense.

§ 3. CHILD LABOR PROHIBITED DURING SCHOOL HOURS —PENALTY.] No child between eight and fourteen years of age shall be employed in any mine, factory or workshop or mercantile establishment, or except by his parent or guardian, in any other manner, during the hours when the public schools in the city, town, village or district are in session, unless the person, firm or corporation employing him shall first procure a certificate from the superintendent of the schools of the city, town or village, if one be employed, otherwise from the clerk of the school board or board of education, stating that such child has attended school for the period of twelve weeks during the year, as required by law, or has been excused from attendance as provided in section one (1) of this article; and it shall be the duty of such superintendent or clerk to furnish such certificate upon application of the parent, guardian or other person having control of such child, entitled to the same. Every owner, superintendent or overseer of any mine, factory, workshop or mercantile establishment, and other person who shall employ any child between eight and fourteen years of age, contrary to the provisions of this article, shall be deemed guilty of a misdemeanor, and for every such offense shall, upon conviction thereof, be fined not less than ten (10) dollars nor more than twenty (20) dollars and costs.

§ 4. FORFEITURE FOR MISREPRESENTATION.] Any per-

son having control of a child, who with intent to evade the provisions of this act, shall make a wilfully false statement concerning the age of such child, or the time such child has attended school, shall for such an offense forfeit a sum not less than ten (10) dollars nor more than twenty (20) dollars for the use of the school corporation.

§ 5. PROSECUTIONS—HOW CONDUCTED.] Prosecutions under this act shall be instituted and be carried on by the district school board or chairman of the board of education in independent districts and be brought in the name of said school corporation for the use of the school fund of said corporation. *Provided*, That all prosecutions of school officers for their neglect of duty regarding the provisions of this chapter, shall be instituted and carried on by the county superintendent in the name of the state, and all fines arising from this source shall be paid to the county treasurer and be a part of the county school fund.

§ 6. JURISDICTION.] Police, [and] municipal courts, justices of the peace and judges of the county court shall have jurisdiction within their respective counties of the offenses described in this act.

CHAPTER VIII.

MISCELLANEOUS.

§ 1. SCHOOL MONTH AND WEEK DEFINED.] A school month shall consist of twenty school days, a school week of five school days, and no Saturdays shall be counted as school days.

§ 2. FALSE REPORTS—HOW PUNISHED.] Every clerk or treasurer of a school district who shall wilfully sign or transmit a false report to the county superintendent or wilfully sign, issue or publish a false statement of facts, purporting or appearing to be based upon books, accounts or records, or of the affairs, resources and credits of the school district shall, upon conviction, be punished by a fine not exceeding fifty (\$50.00) dollars, or by imprisonment in the county jail not exceeding fifteen days.

§ 3. REFUSAL TO DELIVER RECORDS—HOW PUNISHED.] Every clerk or treasurer of a school district who shall wilfully neglect or refuse to deliver to his successor in office all records, books, papers, accounts, money and other property belonging thereto and to the district, shall upon conviction, be fined not less than five (\$5.00) dollars nor more than fifty (\$50.00) dollars, and the successor shall prosecute without delay upon the official bond of such officer for the recovery of all such money.

§ 4. OFFICERS TO FIRST QUALIFY.] No officer of a school

district shall perform any of the duties of the office nor receive any of the property, money, books or papers belonging to the office, nor any money from the county treasurer, or warrant thereof, until he has fully qualified as required by law.

§ 5. TIME FOR QUALIFICATION LIMITED—TREASURER TO FURNISH NEW BOND.] If any person elected or appointed to a school district office shall, for one month after the time fixed by law, fail to qualify or give bonds as provided by law, the office shall be deemed vacant, and the county superintendent shall, when notified of such vacancy, proceed to fill the same by appointment. Whenever a treasurer of a school district, by election or appointment, becomes his own successor, he shall give new bonds, and all such officers shall qualify anew upon entering upon a new term. If from sickness or any other cause, such officer shall become incapacitated or unable to attend to the duties of his office, the fact shall be certified to the county superintendent by the remaining officer or officers of the school district, and a successor shall be appointed to fill such vacancy. Ceasing to be a resident of the district shall be deemed an immediate vacation of the office.

§ 6. RECORDS OPEN TO INSPECTION.] All reports, and all books, records, vouchers, contracts and papers of all kinds relating to the school houses, schools and school business in the district in the office of the clerk or treasurer shall be at all times open to the inspection of the chairman, who shall advise and aid towards securing correct records and accounts and legal reports, and they shall likewise be open to the inspection of the state and county superintendent, and any particular paper or record shall be exhibited at reasonable hours to the examination of any voter or taxpayer.

§ 7. TAX TO BE LEVIED TO PAY JUDGMENT.] Whenever any final judgment shall be obtained against any school corporation, the board thereof shall levy a tax upon the taxable property in the corporation for the payment thereof, and such tax shall be collected as other school taxes, but no execution shall issue against any school corporation. Such tax or taxes shall not be greater than two per cent in any one year and any surplus funds in the treasury of the school corporation may be appropriated to the payment of a judgment. If the school board shall fail or refuse to levy such tax, the judgment creditor may apply to the board of county commissioners who shall cause such tax to be levied upon the property of the school district. When collected it shall be paid over by the county treasurer to the judgment creditor, whose receipt therefor shall be delivered the same as money to the treasurer of the school corporation by the county treasurer. Such levy may be repeated until the judgment is paid.

§ 8. JURISDICTION OF JUSTICES OF THE PEACE.] Justices of the peace shall have jurisdiction in all cases in which a school corporation is a party interested, when the amount claimed by the plaintiff does not exceed one hundred (\$100.00) dollars, and the party shall have the right to appeal as in other cases.

§ 9. FINES—HOW COLLECTED.] All fines and penalties not otherwise provided for in this act shall be collected by action in any court of competent jurisdiction.

§ 10. COUNTY ASSESSOR TO FURNISH CERTIFICATE OF VALUATION OF REAL AND PERSONAL PROPERTY.] Every township or county assessor shall, on or before the 15th day of July in each year, furnish to the clerk of each school corporation, the property of which he assesses, a certificate of the valuation of all real property and all personal property, and of the total of these subject to taxation within the corporation for the current year.

§ 11. CONSTRUCTION OF LAW.] Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them unless it be otherwise expressed in the section or law giving the authority; and when a decision or direction is made by the majority of such officers or persons it is the duty of the one to whom its execution belongs by law to execute the same in all respects as if it [he] had favored the particular decision or direction, or as if it were authorized unanimously.

§ 12. ANNUAL MEETING.] The school district annual meeting shall be held upon the third Tuesday in June of each year.

CHAPTER IX.

CITIES, TOWNS AND OTHER INDEPENDENT DISTRICTS.

§ 1. CITIES AND TOWNS MAY ADOPT THE PROVISIONS OF THIS ACT.] All cities now organized or hereafter to be organized under the general act to provide for the corporation of cities, shall be governed by the provisions of this act. *Provided*, that any city, town or village, now organized under a special act, either for civil government or educational purposes, may at any time adopt the provisions of this act by a majority vote of the electors. *Provided, further*, That any town or village having a population of one hundred inhabitants or over within a radius of one mile of the center may adopt the provisions of this chapter. In such cases the county superintendent shall upon petition of a majority of the legal voters within the proposed district, call the first election therefor by posting notices in not less than three of the most public places in the district

or districts, in which the said town or village is situated. Said notices shall contain a full description of the boundaries of the proposed district, and also the time and place of holding the election. If a majority of the voters in the district or districts in which the said town or village is situated shall vote for the incorporation of said town or village as a corporation for school purposes, then it shall be considered as authorized, and the county superintendent shall without delay publish notices for an election of officers for said independent corporation.

§ 2. COMMITTEE OF ARBITRATION—HOW CONSTITUTED.] Whenever a new corporation is formed as provided in Section 1, of this chapter, the county superintendent, the president of the board of education of the district thus organized, and the chairman of the school district affected by the organization of the new district, shall constitute a committee of arbitration for the purpose of adjusting all property interests between the new corporation and the district or districts affected by its formation. The title to all real property granted to the new corporation by the committee of arbitration shall be made over to the said corporation by the corporation or corporations in which it was previously vested upon order of the said committee. And all personal property granted to the said new corporation by the committee shall be delivered to the proper officers by those having it in charge upon demand accompanied by the order of the committee. It shall be the duty of the county superintendent to file with the county auditor a correct plat showing the adjustment of district boundaries in consequence of the formation and organization of a district as above provided.

§ 3. NUMBER OF MONTHS SCHOOL SHALL BE OPEN.] Each corporation organized under this chapter, shall establish and maintain a system of free common schools, which shall be kept open not less than six nor more than ten months in any one year, and shall be free to all children of legal school age residing within such corporation.

§ 4. TERRITORY ATTACHED—HOW.] Territory outside of the limits of any organized city, town or village, but adjacent thereto, may be attached to such city, town or village for school purposes under the following conditions:

1. Application for such change must be made by three-fourths of the electors of such adjacent territory by written petition.

2. Upon receipt of such petition, the county superintendent shall call a committee to decide upon granting or refusing the petition, said committee consisting of himself, the president of the board of education and the chairman of the district school board of the district in which the petitioners reside.

3. The committee shall consider the interests of the two corporations concerned, the convenience of the petitioners, and

the permanent school interests, and, if they deem it proper, shall grant the petition and issue an order authorizing the attaching of said territory to the city, town or village to which it is adjacent.

4. The committee shall also have power to adjust all property interests involved in the change which concern the two corporations interested. Before the issuance of an order authorizing the change they shall make an equitable adjustment of any questions of indebtedness involved.

5. A record of the decisions of the committee shall be transmitted to the clerk of the school board and the board of education interested, and a copy forwarded to the office of the county auditor by the superintendent upon ratification of the action of the committee by the district school board and the board of education.

6. Such territory shall, from the date of the order authorizing its attachment, be considered a part of the corporation of said city, town or village. *Provided*, That such order shall not be issued until after the action and decisions of the committee are ratified by the board of education and the district school board. The taxable property of such adjacent territory shall be subject to taxation, and bear its proportion of all expenses incurred in the erection of school buildings and in maintaining the schools of such corporation. *Provided*, That territory more than two miles from the limits of such city, town or independent district, shall not be considered adjacent territory to which the provisions of this section may apply, unless the electors of such territory shall unanimously petition to be thus attached and considered as adjacent territory.

§ 5. CORPORATE POWERS.] Every district organized under the provisions of this chapter shall be a body corporate and shall possess the usual powers of corporations for public school purposes, and may sue and be sued, and be capable of contracting and being contracted with, and of holding and conveying such personal or real property as it may possess. All actions brought by or against such corporations shall be in the name of the board of education of the city, town or village (as the case may be) of of the State of South Dakota.

§ 6. CONVEYANCES OF PROPERTY—HOW MADE.] All conveyances of property in cities and incorporated towns mentioned in the preceding section, shall be signed by the mayor of said civil corporation, and attested by the clerk and shall have the seal of the corporation affixed thereto, and be acknowledged by the mayor in the same manner as other conveyances of real estate.

§ 7. BOARD OF EDUCATION—HOW CHOSEN.] When any city or town is divided into wards, there shall be elected a board of education consisting of one member from each ward to hold

office for the period of two years, who shall be elected by the qualified voters thereof. The members of the board of education shall determine by lot at their first meeting, which of their number shall hold office for one year, and which for two years, and all persons elected at the annual election thereafter shall be entitled to hold office for two years each. The lot shall be cast to divide the board as nearly as possible, evenly. *Provided*, That no member of the board of education shall be a member of the council, and that in all corporations not organized as cities, and in all cities and towns not divided into wards, and in villages where there is no civil organization, there shall be elected three members of the board of education for three years, none of whom shall be members of the village board of trustees. At the first meeting after the first election the three members shall cast lots to determine who shall hold office for one, two or three years respectively, and annually thereafter one member shall be chosen. In towns without civil organizations, the election of said board of education shall take place the last Saturday in June, between the hours of nine o'clock A. M. and four o'clock P. M., at such place as the board may designate. In towns having civil or municipal organization the election of school officers shall not be held at the same time that any municipal election is held.

§ 8. VACANCY—HOW FILLED.] The board of education shall have power to fill any vacancy which may occur in their body. *Provided*, That any vacancy occurring not more than thirty days previous to the annual election shall be filled at the first annual election thereafter.

§ 9. POWERS OF BOARD OF EDUCATION.] The board of education shall have power to organize and maintain a system of graded schools, to establish a high school whenever, in their opinion, the interest of the corporation demand the same, and to exercise sole control over the schools and school property of the corporation.

§ 10. BOARD OF EDUCATION—ORGANIZATION OF.] The board of education at its regular meeting in May of each year shall organize by the election of a president and vice president, each of whom shall serve for the term of one year, and they also shall elect a clerk not a member of the board who shall receive such compensation for his services as the board may allow. *Provided*, That in districts newly organized under this act, the board shall within thirty days after their election, proceed to organize and select officers as aforesaid, who shall serve until the time of the regular meeting in May following.

§ 11. DUTIES OF THE PRESIDENT.] It shall be the duty of the president to appoint all committees and to countersign all warrants drawn upon the treasury for school moneys. It shall be the duty of the clerk to be present at all meetings

of the board, keep an accurate journal of its proceedings, take charge of its books and documents, sign all warrants for school money and perform such other duties as the board may require. Before entering upon the discharge of his duties the clerk of the board of education shall give a bond in a sum to be fixed by the board, not less than five hundred dollars with good and sufficient securities [sureties] to be approved by the board.

§ 12. TAX TO BE LEVIED.] The board of education shall, on or before the fifteenth day of August of each year, levy a tax for the support of the schools of the corporation for the fiscal year next ensuing, not exceeding in any one year thirty mills on the dollar, on all personal and real property within the district which is taxable according to the laws of the state, which levy shall be approved by the city council, or other town authorities, if there be such, and which levy when so approved, the clerk of the board shall certify to the county clerk who is hereby authorized and required to place the same on the tax roll of said county to be collected by the treasurer of the county as other taxes of the county and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall transmit to the clerk of the board of education.

§ 13. TREASURER—HOW CHOSEN—BOND OF—DUTIES OF.] At the first regular meeting of the board they shall elect a treasurer out of their own number who shall hold office for one year [and] who shall execute a bond in such sum as the board may require with sureties to be approved by the board. He shall prepare and submit in writing a monthly report of the state of the finances of the corporation and shall, when required, produce at any meeting of the board all books and papers pertaining to his office. He shall pay money only upon a warrant countersigned by the president, or in his absence the vice-president, and signed by the clerk.

§ 14. PROPERTY SUBJECT TO TAXATION.] The taxable property of the whole corporation including the territory attached for school purposes shall be subject to taxation.

§ 15. MEETINGS OF BOARD OF EDUCATION.] The regular meetings of the board of education shall be upon the last Friday of each month, but special meetings may be held from time to time as circumstances may demand.

§ 16. CLERK'S ANNUAL REPORT.] The clerk of the board of education at the close of each school year, shall make an annual report of the progress, prosperity and condition, financial as well as educational, of all the schools of the corporation, a copy of which shall be sent to the county superintendent. Said report or such portion of it as the board of education shall con-

sider advantageous to the public, shall be printed in a public newspaper or in pamphlet form.

§ 17. EXPENDITURES—HOW MADE.] No expenditures involving an amount greater than one hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred dollars for the purpose of erecting any public buildings, or making any improvements shall be made except upon sealed proposals and to the lowest possible [responsible] bidder.

§ 18. SECTARIAN DOCTRINE.] No sectarian doctrine shall be taught or inculcated in any of the schools of the corporation; but the Bible without sectarian comment may be read therein.

§ 19. BOARD MAY BORROW MONEY.] Whenever it shall become necessary in order to raise sufficient funds for the purchase of a school site or sites, to erect suitable building or buildings thereon, or to fund a bonded indebtedness, it shall be lawful for the board of education of every corporation coming under the provisions of this act, to borrow money, for which they are hereby authorized and empowered to issue bonds bearing a rate of interest not exceeding seven per cent per annum, payable annually or semi-annually, at such place as may be mentioned upon the face of said bonds, which bonds shall be payable in not more than twenty years from their date; and the board of education is hereby authorized and empowered to sell such bonds at not less than par. *Provided*, That no bonds shall be issued until the question shall be submitted to the people and a majority of the qualified electors who shall vote on the question at an election called for that purpose, shall have declared by their votes in favor of issuing such bonds.

§ 20. ELECTION—HOW CALLED.] It shall be the duty of the mayor of such city or town, upon request of the board of education, to call an election to be conducted in all respects as are the elections for city or town officers, in the same corporations, except that the returns shall be made to the board of education, for the purpose of taking the sense of such corporation upon the question of issuing such bonds, naming in the proclamation of such election the amount of bonds asked for and the purpose for which they are to be issued. *Provided*, That where the corporation is not organized for civil government, the board of education may call and conduct the election provided for in this section.

□ § 21. BONDS—HOW ISSUED—SHALL SPECIFY WHAT.] The bonds, the issuing of which is provided in the foregoing section, shall be signed by the president, attested by the clerk and countersigned by the treasurer of the board of education, and said bonds shall specify the rate of interest and the time when the principal and interest shall be paid, and each bond so issued

shall be for a sum not less than fifty (50) dollars; but no corporation shall issue bonds in pursuance of this act in any sum greater than three per cent of its assessed valuation.

§ 22. ADDITIONAL LEVY FOR PAYMENT OF INTEREST.] The board of education at the time of its annual levy of taxes for the support of schools as herein provided, shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under the provisions of this article, and also to create a sinking fund for the redemption of said bonds, which it shall levy and collect in addition to the rate per cent authorized by the provisions aforesaid for school purposes, and said amount of funds when paid into the treasury shall be and remain a specific fund for said purpose only and shall not be appropriated in any other way except as hereinafter provided.

§ 23. SINKING FUND—HOW INVESTED.] All money raised for the purpose of creating a sinking fund for the final redemption of all bonds issued under this article, shall be invested annually by the board of education in bonds of the State of South Dakota or of the United States, or the board may buy and cancel the bonds of the district whenever such may be purchased at or below par.

§ 24. TREASURER TO PAY INTEREST COUPONS.] Whenever the interest coupons of the bonds hereinbefore authorized shall become due, they shall be promptly paid by the treasurer upon presentation, out of money in his hands, collected for that purpose, and he shall endorse upon the face of such coupons in red ink the word "paid" and the date of payment and sign the initials of his name.

§ 25. BONDS—HOW SECURED.] The school fund and property of such civil corporation and territory attached for school purposes is hereby pledged to the payment of the principal and interest of the bonds mentioned in this article as the same may become due.

§ 26. REGISTRATION OF BONDS.] It shall be the duty of the clerk of the board of education to register in a book provided for that purpose the bonds issued under this article, and all warrants issued by the board, which registration shall show the number, date and amount of said bonds and warrants and to whom made payable.

§ 27. OATH OF OFFICE—WHERE FILED.] Each member of the board of education and officer provided for in this article shall take and subscribe an oath or affirmation to support the constitution of the United States, the State of South Dakota, and faithfully to perform the duties of his office. The oath and bond of the clerk shall be filed with the treasurer. All other oaths and bonds shall be filed with the clerk, but the clerk shall immediately notify the county auditor and county superintendent of the filing of such oath and bonds.

§ 28. EXAMINATION OF TEACHERS IN INDEPENDENT SCHOOL DISTRICTS.] The county superintendent together with the principal or superintendent of schools of all independent districts employing such officer, and in such independent districts as do not employ such an officer, the county superintendent alone, shall examine all teachers employed to teach in the schools of any city, town or other independent district, the same as other teachers of the county are examined, except as hereinafter provided. In no case shall any teacher be employed to teach in such schools who does not hold a certificate issued as above provided, or a state certificate or a state diploma, and any contract made contrary to the above is hereby declared void. The above section shall be construed as giving the superintendent of schools of any city or town advisory power in the examination of teachers for his school, and he may add such questions as he may deem wise to use in the examination in order to test the qualifications of teachers for any particular grade or special work.

§ 29. ERROR—HOW CORRECTED.] Whenever an error occurs in any school corporation or district tax list the board of county commissioners may correct and refund such improper collection of school taxes the same as for other county taxes.

CHAPTER X.

SCHOOL BONDS.

§ 1. BONDS—WHEN ISSUED. Whenever a majority of the qualified electors of a school district shall, at any regular or special meeting held for the purpose, vote to issue school district bonds for the purpose of building and furnishing a school house and purchasing grounds on which to locate the same, or to fund any outstanding indebtedness, [the] district school board may lawfully issue such bonds in accordance with the provisions of this act. *Provided, however,* That the question of issuing bonds shall not be submitted to a vote of the district, and no meeting shall be called for that purpose until the district school board shall have been petitioned, in writing, by one-third of the voters resident in said school district.

§ 2. NOTICE TO BE GIVEN.] Before the question of issuing bonds shall be submitted to a vote of the school district, notices shall be posted in at least three public and conspicuous places in said district, stating the time and place of meeting, the amount of bonds proposed to be issued, and the time in which they shall be made payable; said notices shall be posted not less than twenty days before the meeting, and the voting shall be done by means of written or printed ballots, and all

ballots deposited in favor of issuing bonds shall have thereon the words, "for issuing bonds;" and those opposed thereto shall have thereon the words, "against issuing bonds," and if a majority of all the votes cast shall be in favor of issuing bonds the school board, through its proper officer, shall forthwith proceed to issue bonds in accordance with the vote, but if a majority of all votes cast are against issuing bonds, then no further action can be had, and the question shall not again be submitted to a vote for one year thereafter, except for a different amount.

§ 3. DENOMINATION OF BONDS.] The denominations of the bonds which may be issued under the provisions of this act, shall be fifty (50) dollars, or some multiple of fifty, not exceeding five hundred (500) dollars, and shall bear interest at the rate of not exceeding seven per cent per annum, payable semi-annually in accordance with interest coupons which shall be attached to said bond; and no greater amount than \$1,000 can be issued for any one school house, except in towns and villages of more than three hundred inhabitants, and in such districts the amount shall not exceed three per cent of its assessed valuation, and may be made payable in not less than ten nor more than twenty years from their date.

§ 4. BONDS—HOW PREPARED.] Whenever any bonds are issued under the provisions of this act, they shall be lithographed or printed on good bond paper, and shall state upon their face the date of their issue, the amount of the bond, to whom and for what purpose issued, also the time and place of making and the rate of interest to be paid. They shall have printed upon the margin the words "authorized by act of the legislative assembly of the State of South Dakota, A. D., 1891," and upon the back of the bonds a certificate signed by the county auditor in substantially the following form: "I certify that the within bond is issued in accordance with law, and is within the debt limits permitted by the constitution of the State of South Dakota and in accordance with a vote of..... school district at a regular (or special) meeting on the.....day of..... A. D., 18....to issue bonds to the amount ofdollars." They shall be signed by the president and clerk of the school board and shall be registered and numbered in a book to be kept by the clerk for that purpose, in which shall be entered the number, date and name of the person to whom issued, and the date when the same shall become due.

§ 5. PROVISION FOR PAYMENT OF BONDS.] In addition to the amount that may already be assessed under existing laws, there shall be levied upon the taxable property of the school districts so issuing bonds, and collected as other taxes are collected, a sum sufficient, not exceeding three mills on the

dollar of assessed valuation of said districts, to pay interest upon such bonded indebtedness, and after five years in like manner a further tax not to exceed six mills upon the dollar for a sinking fund, to be used in payment of such bonds when they become due, and for no other purpose, except that whenever there may be sufficient funds on hand belonging to such sinking fund, the school board, may, in their discretion, purchase any of its outstanding bonds at their market value and pay for the same out of the sinking fund.

§ 6. BONDS—HOW SOLD.] Whenever any bonds shall be issued under the provisions of this act, the school district treasurer shall have authority to negotiate and sell such bonds for not less than par, and the proceeds shall be used exclusively for the purpose of building and furnishing a school house, and in payment for a site for the same and for necessary out-buildings.

§ 7. POWER TO LEVY TAX.] Bonds issued under the provisions of this act shall be a lien upon the taxable property of the school district issuing them, and when any school board neglects or refuses to levy a tax in accordance with law to meet outstanding bonds or the interest thereon, the county auditor shall have power to levy such tax, and when collected to apply the proceeds to the payment of such coupons and bonds.

§ 8. BONDS—HOW CANCELLED.] Whenever the bonds of any school district shall have been redeemed by the school board, they shall be cancelled by writing or printing in red ink the words "cancelled and paid" across each bond and coupon, and the date of payment and amount paid shall be entered in the clerk's register against the proper number of the bond, and the bonds so cancelled shall be filed in the office of the district treasurer, until all the outstanding bonds are paid, when they shall be destroyed in the presence of a [the] full board.

§ 9. SEALED PROPOSALS DEMANDED.] Whenever any school house is built with funds provided in the manner herein authorized, the school board shall advertise at least thirty days in some newspaper printed in the county, or by posting notices for the same length of time in at least three of the most public and conspicuous places if no newspaper is published in the county, for sealed proposals for building and furnishing such school house in accordance with plans and specifications which shall be furnished by the school board, reserving the right to reject any and all bids, and if any of the proposals shall be reasonable and satisfactory, said board shall award the contract to the lowest responsible bidder, and shall require of such contractor a bond in double the amount of the contract, conditioned that he will properly account for all money and property of the school district that may come into his hands, and that he will perform the conditions of his contract in a faithful manner and

in accordance with its provisions, and in case all the proposals shall be rejected, said board shall advertise anew in the same manner as before, and until a reasonable bid shall be submitted. *Provided, however,* That no member of the district school board, clerk or treasurer shall be interested directly or indirectly in any contract for building or furnishing any school house provided for in this act.

§ 10. PROVISIONS OF THIS ACT—WHEN APPLICABLE.] The provisions of this act shall be applicable to and authorize the issue of bonds by such school districts as have already built school houses and issued orders or warrants therefor, and any such school district may vote to bond the indebtedness incurred by reason of building and furnishing school houses.

§ 11. REPEAL.] All acts and parts of acts relating to education, passed prior to January 1, 1890, (except special acts relating to schools in cities, towns and villages and also to independent districts created by special acts) are hereby repealed.

§ 12. EMERGENCY.] Whereas there is no uniform system of education in the State of South Dakota, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

ELECTIONS.

CHAPTER 57.

[Sustitute for Senate Bills 3 and 4.]

TO ENFORCE THE SECRECY OF THE BALLOT.

AN ACT to Promote Independence of Voters at Public Elections, and to Enforce the Secrecy of the Ballot.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. BALLOTS TO BE PRINTED AND DISTRIBUTED AT PUBLIC EXPENSE.] All ballots cast in elections for public officers within the State of South Dakota (except school, district

or school township officers, and township officers) shall be printed and distributed at public expense as hereinafter provided. The printing of ballots and the cards of instruction for the electors in each county, and the delivery of the same to the election officers as hereinafter provided, the payment of which shall be provided for in the same manner as other county expenses; but the expense of printing and delivering the ballots shall, in case of municipal elections, be a charge upon the city or town in which such election shall be held.

§ 2 CONVENTION OR PRIMARY MEETING.] Any convention or primary meeting, as hereinafter defined, held for the purpose of making nominations to public office and also electors to the number hereinafter specified, may nominate candidates for public office to be filled by election within the state. A convention or primary meeting within the meaning of this act, is an organized assemblage of electors or delegates representing a political party or principle.

§ 3. NOMINATIONS TO BE CERTIFIED.] All nominations made by such convention or primary meeting shall be certified as follows: The certificates of nomination shall be in writing, shall contain the name of each person nominated, his residence, his business address, and the office for which he is named, and shall designate in not more than five words the party or principle which such convention or primary meeting represents, and it shall be signed by the presiding officer and secretary of such convention or primary meeting, who shall add to their signatures their respective places of residence, their business and business addresses. Such certificates made out as herein required shall be delivered by the secretary or president of such convention or primary meeting, to the secretary of state or to the county auditor as hereinafter required.

§ 4. CERTIFICATES OF NOMINATION TO BE FILED.] Certificates of nomination of candidates to be filled by the electors of the entire state, or any division or district greater than a county, shall be filed with the secretary of state. Certificates for the nomination for county and precinct officers shall be filed with the auditor of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal officers shall be filed with the clerks of the respective municipal corporations wherein the officers are to be elected. The certificates for the nomination of a joint member of either branch of the legislature, shall be filed in the office of the county auditors of all counties to be represented by such joint member.

§ 5. OTHER MANNER OF NOMINATIONS.] Candidates for public office may be nominated otherwise than by convention or primary meeting in the manner following: A certificate of nomination containing the name of the candidate for the office to be filled, with such information as is required to be given in

certificates provided for in Section 3 of this act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected in the following numbers: The number of signatures shall be two hundred or more when the nomination is for an office to be filled by the electors of the entire state, and need not exceed twenty when the election is for an office to be filled by the electors of a county, district or other division less than the state, and need not exceed five when the nomination is for an office to be filled by the electors of a township, precinct or ward. *Provided,* That the said signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence, his business and his business address. Such certificate may be filed as provided for in Section 4 of this act in the same manner and with the same effect as a certificate of nomination made by a party convention or primary meeting.

§ 6. CERTIFICATE OF NOMINATION TO CONTAIN NAME OF BUT ONE PERSON.] No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in nominating more than one person for each office to be filled, except as otherwise provided by law, and no person shall accept a nomination to more than one office.

§ 7. CERTIFICATES TO BE PRESENTED.] The secretary of state and the auditors of the several counties and of the several municipal corporations shall cause to be preserved in their respective offices for two years all certificates of nomination filed in their respective offices under the provisions of this act. All such certificates shall be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

§ 8. TIME FOR FILING CERTIFICATES.] Certificates of nomination to be filed with the secretary of state, shall be filed not less than thirty days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the county auditor shall be filed not more than sixty days and not less than twenty days before election, certificates for the nomination of candidates for municipal offices shall be filed with the clerks of the respective municipal corporations not more than thirty days and not less than three days previous to the day of election. *Provided,* That the provisions of this section shall not be held to apply to nominations for special election to fill vacancies by death, resignation or otherwise.

§ 9. CERTIFICATE TO COUNTY AUDITOR FROM SECRETARY OF STATE.] Not less than twenty nor more than thirty days before election to fill any public office, the secretary of state shall certify to the county auditor of each county in which any

of the electors may by law vote for candidates for such office, the names and descriptions of each person nominated for such office, as specified in the certificates of nomination filed with the secretary of state.

§ 10. PUBLICATION OF NOMINATIONS.] At least ten days before an election to fill any public office, other than a municipal office, the county auditor of each county shall cause to be published in one or more official newspapers within the county, the nominations to office, certified to him under the provisions of this act. The county auditor shall make such publications daily until the election, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each newspaper will be sufficient. One of such publications in each newspaper shall be upon the last day upon which such newspaper is issued before election. In the case of municipal elections such publications shall be made in one or more newspapers devoted to the dissemination of general news and published within the municipal corporation in which the election is to be held, at least three days before the election, the publication to be daily until the election where there are daily newspapers, but if there be no daily newspapers published within the municipal corporation, one publication in each newspaper shall be sufficient. *Provided*, If there be no newspaper published in such municipal corporation, or county, then the clerk or auditor shall publish such nominations by posting lists of said nominations at three public places within the limits of each voting precinct of such municipal corporation or county.

§ 11. VACANCIES FILLED—HOW.] Should any person so nominated die before the printing of the tickets, or decline the nomination, as in this act provided, or should any certificate of nomination be, or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be

filed with the secretary of state, he shall, in certifying the nomination to the various county auditors, insert the name of the person who has thus been nominated to fill a vacancy in the place of that of the original nominee. And in the event he has already sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted.

§ 12. QUESTIONS—HOW SUBMITTED TO THE PEOPLE.] Whenever a proposed constitution or constitutional amendment, or other question is to be submitted to the people of the state for popular vote, the secretary of state shall duly and not less than thirty days before election, certify the same to the auditor of each county in the state, and the auditor of each county shall include the same in the publication provided for in Section 10 of this act. Questions to be submitted to the people of a county or municipality shall be advertised as provided of nominees for office by said election.

§ 13. NAME MAY BE WITHDRAWN FROM NOMINATION.] Any person whose name has been presented as a candidate may cause his name to be withdrawn from nomination, by request in writing, signed by him, and acknowledged before an officer qualified to take acknowledgments, and filed with the secretary of state, in case the nomination shall have been for a state office, or for an office in the district greater than a county, or with the county auditor in case of a nomination for a county office, or with a city, town or village clerk, in case of a nomination for a city, town or village office. Such withdrawal shall be filed with the secretary of state at least fifteen (15) days; with the county auditor ten (10) days, and with the city, town or village clerk three (3) days, as the case may be, previous to the day of election; and no name so withdrawn shall be printed on the ballots to be used. No nomination published and posted as herein provided, shall be subsequently omitted as invalid.

§ 14. BALLOTS—HOW PROVIDED.] Except as in this act otherwise provided, it shall be the duty of the county auditor of each county to provide printed ballots for every election in which the voters of the entire county participate. Such printed ballots shall contain the name of every candidate whose nomination has been certified to or filed with the county auditor in the manner provided by law in this act, as well as any proposed constitutional amendments or questions. Sample ballots printed on paper of a different color from the official ballots, but in the form of those to be used on the day of election, each containing the names of the candidates which are printed on the appropriate official ballot, shall be printed and in the possession of the county auditor, or other officers of boards charged with the

duty of preparing such ballots, ten (10) days before the day of election, in case of county, district or state election, and three (3) days before the day of election in case of a city, town or village election, and shall be subject to public inspection. The official ballot shall be printed and in the possession of the county auditor, or such other officers or boards, at least five (5) days before the day of election in the case of county, district or state election, and one (1) day before the election in case of city, town or village election, and shall be subject also to inspection by the candidates.

§ 15. EXPENSE OF BALLOTS—HOW PAID.] Samples and official ballots for use in cities, towns and villages, shall be prepared in the same manner as above provided, by the clerks of the respective cities, towns and villages, and the rules laid down by this act for the government of county auditors shall in like manner apply to the clerks of cities, towns and villages, in case of elections to be held therein for city, town or village officers, and the expense of printing and delivering such ballots shall be a charge upon such city, town or village, and shall be paid in the same manner as other contingent expenses are paid.

§ 16. NUMBER OF BALLOTS TO BE PROVIDED.] The county auditor of each county, or other public officers or boards, charged with the duty of furnishing or providing ballots, shall provide for each election district or precinct in the county two hundred (200) ballots for every fifty (50) or fraction of fifty (50) voters who shall have voted at the last preceding election, or a sufficient number of ballots for such election district or precinct. When a district or precinct shall be divided, or the boundaries changed, or new districts or precincts created, the county auditor or such other public officers or boards must ascertain as nearly as possible, the number of voters in the new district or precinct, and provide therefor a sufficient number of ballots in the above proportion.

§ 17. ERROR IN BALLOT HOW CORRECTED.] Whenever it shall appear by affidavit that an error has occurred in the publication of the names or descriptions of the candidate nominated for office, or in the printing of the samples or official ballots, the judge of the county court, may, upon application of any voter, by an order, require the county auditor or other public official or board charged with the duty in respect to which such error or omission has occurred, to correct such error, or to show cause why such error should not be corrected. The county auditor or such other public official or board shall upon his own or their own motion, correct without delay any patent error in ballots which he or they may discover, or which shall be brought to his or their attention, and which can

be corrected without interfering with the timely distribution of the ballots as hereinafter provided.

§ 18. DISTRIBUTION OF BALLOTS.] The county auditors of the various counties in the state, shall, prior to an election, cause to be delivered by the sheriff, or his deputies, to each of the town clerks or to a judge of election of such precinct, district, town or ward, who shall have been regularly appointed, the proper number of ballots provided for the use of the voters of such precinct, district, town or ward, at such election. The same shall be sent in sealed packages, one of each kind for each and every election precinct, district, town or ward, in such county, with the marks on the outside of each package, clearly stating the polling place for which it is intended, together with the number of ballots enclosed. They shall be delivered to the town clerk or to the judge of election of each precinct, district, town or ward, not later than the Saturday before the election. In cases of city, town or village elections the ballots shall be delivered by the city, town or village clerk to one of the judges of the election who shall have been duly appointed, on the day preceding the day of election. Receipts for ballots showing the number delivered, shall be given by the clerk or the judge of election in any precinct, district, town, village or ward, who receives them, the receipt shall be filed with the county auditor, who shall keep a record of the time when and the manner by which each of the said packages were sent, and received by the parties to whom sent. In case of city, town or village elections, the receipts and records of sending shall be received by and filed with the city, town or village clerk, wherein such election may be held. The county auditor shall take a receipt from the sheriff or his deputies by whom such ballots are transmitted. The town clerk or judge of election receiving such packages, shall at the opening of the polls on election day, cause the same to be delivered with the seals unbroken, to the election board of the various election precincts, districts, towns or wards, as designated on the outside of the packages respectively, and shall take receipts therefor from the judges of election, which said receipt shall be returned to the county auditor with the election returns, or in the case of a city, town or village election, to the clerk thereof.

§ 19. DUPLICATE BALLOTS—HOW PROVIDED.] In case the ballots to be furnished to any precinct, district, town or ward, in accordance with the provisions of this act, shall fail for any reason to be duly delivered, or in case after delivering they shall be destroyed or stolen, it shall be the duty of the election board of such precinct, district, town or ward, to immediately procure from the county auditor in the case of a general or county election, or from the city, village, or town clerk, in case of city, town or village election, a second package of ballots,

similar in all respects to those previously sent. If there be not time to thus procure additional ballots from the county auditor or from the city, town or village clerk, respectively, it shall be the duty of such election board to cause other ballots to be prepared, substantially in form of the ballots so wanting, and to be furnished, and such election board shall severally make a statement under oath, that the original ballots have failed to be received, or that they have been destroyed or stolen as the case may be, and that the ballots furnished by them are substantially similar to the official ballot, a copy of which had been previously posted, which statement shall be sent to the county auditor, or in case of a city, town or village election, to the clerk of such city, town or village, with the election returns from such precinct, district, town or ward.

§ 20. STYLE AND FORM OF BALLOT.] All ballots prepared under the provisions of this act shall be white in color, and of a good quality of printing paper, and the names shall be printed thereon in black ink. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this act, and no other names. The names of candidates for each office shall be arranged under the designation of the office in alphabetical order, according to surnames, except that the names of electors of the president and vice president of the United States presented in any one certificate of nominations shall be arranged in a separate group. Every ballot shall also contain the name of the party or principle which the candidate represents, as contained in the certificate of nomination. At the end of the list of candidates for each office shall be left a blank space large enough to contain as many written names of candidates as there are offices to be filled. There shall be a margin on each side at least half an inch wide, and a reasonable space between the names to be printed thereon, so that the voter may clearly indicate in the way hereinafter provided the candidate or candidates for whom he wished to cast his ballot. Whenever the secretary of state has duly certified to the county auditor any question to be submitted to a vote of the people, the county auditor shall have printed on the regular ballots the questions in such form as will enable the electors to vote upon the question presented in the manner hereinafter provided. The county auditor shall also prepare the necessary ballots whenever any question is required by law to be submitted to the votes of the electors of any locality, and not to the state generally. *Provided, however.* That in all questions submitted to the voters of a municipal corporation alone, it shall be the duty of the municipal clerk or city auditor to provide the necessary ballots.

§ 21. STAMPS TO BE PROVIDED—JUDGES OF ELECTION

TO BE APPOINTED.] Before the opening of the polls the county auditor of the county, or the municipal clerk, or city auditor in the case of municipal election, shall cause to be submitted [delivered] to the judge of election of each election precinct which is within the county (or within the municipality in case of a municipal election), and in which the election is to be held, at the polling place of the precinct, the proper number of ballots as hereinbefore provided for. He shall also deliver to the said judges a rubber or other stamp with ink pad for the purpose of stamping or designating the official tickets, as hereinbefore provided. Said stamp shall contain the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and the official designation of the auditor who furnishes the tickets. The county commissioners of the several counties shall not less than fifteen (15) days before any election, appoint judges of election for each of the several voting precincts of their county. *Provided*, That in case of municipal elections in which the whole county is not interested, such judges shall be appointed for such municipality only. *Provided further*, That in incorporated cities or towns the council or trustees thereof shall appoint such judges.

§ 22. JUDGES OF ELECTIONS—NUMBER OF—COMPENSATION.] The judges appointed by the provisions of the foregoing section shall be three (3) persons who are qualified voters of the precinct or ward for which they are appointed. The judges of election, under the provisions of this act, will be allowed the sum of two (2) dollars each, per day, for their services to be paid from the county funds. *Provided*, that in incorporated cities or towns, such per diem shall be paid from the funds of such city or town, in case of a special election. And in the appointment of judges of election under this act, not more than a majority of such judges of election shall be appointed from any one political party for such precinct.

§ 23. BOOTHS TO BE PROVIDED.] The county commissioners when appointing judges under the provisions of this act, shall designate one of such judges as superintendent, upon whom shall devolve the duty of providing and having ready for the election a sufficient number of places, booths or compartments, which shall be furnished with supplies and conveniences as shall enable the voter to conveniently prepare his ballot for voting, and in which electors may mark their ballots screened from observation, and a guard rail so constructed that only persons within such rail can approach within six (6) feet of the ballot boxes, or the places, booths or compartments herein provided for. The number of such places, booths or compartments shall not be less than one for every seventy-five (75) electors or fraction thereof in the precinct. No person other

than the electors engaged in receiving, preparing or depositing their ballots, or a person present for the purpose of challenging the vote of any elector about to cast his ballot, shall be permitted to be within said rail. The expense of providing such places or compartments and guard rails shall be a public charge, and shall be provided for in the same manner as the other election expenses. On or before the first day of September of each year in which an election is to be held, the officers now or hereafter to be charged by law with the division or alteration of election precincts, shall, as far as necessary, alter or divide the existing election precincts in such manner that each election precinct shall not contain more than five hundred (500) voters.

§ 24. BALLOT CLERKS.] At any election the judges of election shall designate two of said judges, who shall be known as ballot clerks, whose duty it shall be to deliver ballots to qualified electors. Before delivering any ballot to an elector, the judge shall print on its back, and near the top of the ballot, with the rubber or other stamp provided for the purpose the designation, "Official Ballot," and other words on said stamp, as provided for in Section 21 of this act. Each qualified elector shall be entitled to receive from the said judges one ballot.

§ 25. BALLOT TO BE PREPARED—HOW.] On receipt of his ballot the elector shall, forthwith and without leaving the polling place, retire alone to one of the places, booths, or compartments provided, to prepare his ballot. He shall prepare his ballot by marking a cross before the name of the person for whom he intends to vote—for example, X; or in case of a ballot containing a constitutional amendment, or other question to be submitted to the people, by crossing out therefrom parts of the ballot in such manner that the remaining part shall express his vote on the question submitted. In marking such a ballot, any elector shall be at liberty to use or copy any unofficial sample ballot which he may choose to mark, or to have had marked, in advance of entering the polling place or booth, but no elector shall be at liberty to use or bring into the polling place any unofficial sample ballot printed in the exact style, manner, width or character of paper of the official ballot. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed and so that the endorsement stamp thereon may be seen. He shall then vote forthwith and before leaving the polling place.

§ 26. ASSISTANCE IN PREPARING BALLOT.] Any voter who declares to the judge of election, or when it shall appear to judges of election, that he cannot read, or that by blindness or other physical disability he is unable to mark his ballot, shall upon request, receive the assistance of one or two of the election officers in the marking thereof, and such officer or officers shall certify on the outside thereof that it was so

marked with his or their assistance, and shall thereafter give no information regarding the same. The judges may in their discretion, require such declaration of disability to be made by the voter under oath before them, and they are hereby qualified to administer the same. No elector, other than the one who may, because of his inability to read, or physical disability be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, to ask or receive the assistance of any person within the polling [place] in the preparation of his ballot.

§ 27. **BALLOT MUST BE STAMPED.**] No judge of election shall deposit in any ballot box any ballot upon which the official stamp as hereinbefore provided for does not appear. Every person violating the provisions of this section shall be guilty of a misdemeanor.

§ 28. **CHALLENGING VOTES.**] When any person shall make application for ballots, his right to vote at that poll and election may be challenged, and such proceedings shall thereupon be had before the judges of election as the law now prescribes in case of challenge. Any person may also be challenged as now provided by law, when he shall offer his ballot to the ballot clerk or the judge of election. A reasonable number of challengers, representing each political party, shall be permitted just outside the guard rail, where they can plainly see what is done within the polling place, except at the the voting shelves or within the compartments. The said polling place shall be so arranged, that every part thereof except the voting shelves or the inside of the compartments may be in full view of said challengers. The person voting shall mark and deposit without delay, and shall quit the said enclosed space as soon as he has voted. No voter shall be allowed to occupy a voting shelf or compartment already occupied by another, nor to remain within said enclosed space for more than ten (10) minutes. Nor shall he occupy a voting shelf or compartment, for more than five (5) minutes. No voter, other than an election officer, whose name has been checked on the list of the ballot officers, shall be allowed to re-enter said enclosed space during said election. It shall be the duty of the presiding election officer for the time being, to secure the provisions of this section.

§ 29. **UNUSED AND CANCELLED BALLOTS TO BE RETURNED TO COUNTY AUDITOR.**] If any voter spoils a ballot he may obtain another ballot, and so on successively, not to exceed three (3) ballots in all, upon returning to the ballot clerk the spoiled ballot. In obtaining a ballot to replace a spoiled one, the name of the voter shall be given and the number of the ballot so spoiled, which number shall be noted opposite his name as "spoiled." The ballots thus returned, shall be forthwith can-

celled by writing the word "cancelled" across the face of the ballot; and the same, together with the ballots not distributed to voters, also the record of ballots delivered to voters by the ballot clerks, shall be secured in a package, sealed and on the day after election sent to the county auditor or other public officer, or boards from whom such ballots were received. The ballot clerks shall also at the same time file with the county auditor of their respective counties, or with such other public officers or boards, by whom such ballots were prepared, a statement in writing showing the number of ballots voted, the number of spoiled ballots and the number of ballots [not] delivered to voters. Any ballot clerk who shall fail to thus account fully and particularly for all official ballots placed in his charge shall be guilty of a misdemeanor. The county auditor or other public officer by whom the ballots were furnished, shall, on receipt of the unused, defective or spoiled ballots, and the statement, as before mentioned in this section, shall carefully compare the same with the record in his office of the number of ballots sent to such election precinct, district, town or ward, and in case all the ballots furnished by him for such precinct, district, town or ward, are not accounted for in the statement before mentioned, he shall at once notify the person sending the same, who shall, with such county auditor or other public officer as aforesaid, recount the unused, defective and spoiled ballots and correct, if possible, such errors if any there be, in such count or statement.

§ 30. INSTRUCTIONS TO VOTERS.] The county auditor of each county shall cause to be printed in large type on cards in the English language and such other languages as may be deemed necessary, instructions for the guidance of electors in preparing their ballots. He shall furnish six such cards to the judges of election in each election precinct, and one additional card for each fifty (50) electors or fractional part thereof in the precinct at the same time and in the same manner as the printed ballots.

The judges of election shall post not less than one [of] such cards in each place, or compartment provided for the preparation of ballots, and not less than three [of] such cards elsewhere in and about the polling places upon the day of election. Said cards shall be printed in large clear type, and shall contain full instructions to the voters as to what should be done, viz:

First to obtain the ballots for voting; second, to prepare the ballots for deposit in the ballot boxes; third, to obtain a new ballot in place of one spoiled by accident or mistake. Said card shall also contain a copy of Sections 31, 32, 33 and 34 of this act. There shall also be posted in each of the apartments or booths one of the official tickets without the official stamp herein-

before provided for, and not less than three such tickets posted elsewhere in and about the polling places upon the day of election.

§ 31. **BALLOTS VOID—WHEN.]** In the canvass of the vote any ballot which is not endorsed, as provided for in this act, by the official stamp, shall be void and shall not be counted, and any ballots or parts of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted. *Provided*, That when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, that it shall be the duty of the judges of election to count such part.

§ 32. **CHANGE IN ANY MANNER OF CERTIFICATE OF NOMINATION DEEMED FELONY.]** No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy any certificate of nomination, or any part thereof; or file, or receive for filing, any certificate of nomination, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official endorsement on any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction shall be punished by imprisonment in the penitentiary for a period not less than one year nor more than five years.

§ 33. **WILFUL VIOLATION OF LAW—HOW PUNISHED.]** No person shall during the election, remove or destroy any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this act. No person shall, during an election, tear down or deface the cards printed for the instruction of the voters. Every person wilfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not less than two hundred dollars.

§ 34. **WILFUL NEGLECT OF DUTY—HOW PUNISHED.]** Every public officer upon whom any duty is imposed by this act, who will [shall] wilfully perform any act or thing herein prohibited, or neglect to perform any duty as imposed upon him by the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty dollars nor more than five hundred dollars, or both such fine and imprisonment.

§ 35. **ELECTIONEERING PROHIBITED.]** No officer of election shall do any electioneering on election day. No person

whatsoever shall do any electioneering on election day within any polling place, or any building in which an election is being held, or within fifty feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election [officer] sheriff, constable or other peace officer is hereby authorized and empowered, and it is hereby made his duty, to clear the passage ways and prevent such obstruction, and to arrest any person so doing. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same, nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No person shall make a false statement as to his inability to mark his ballot. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Every elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding two hundred dollars and adjudged to pay the costs of prosecution, and shall stand committed to the county jail until such fine and costs are paid, not exceeding sixty days.

§ 36. EMPLOYEES MAY ATTEND ELECTIONS.] Any person entitled to vote at any election held within this state, shall on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two (2) hours, between the time of opening and the time of closing the polls, and such voter shall not because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages. *Provided, however,* That application shall be made for such leave of absence prior to the day of election. The employer may specify the hours during which such employe may absent himself as aforesaid. Any person or corporation who shall refuse to an employe the privilege hereby conferred, or who shall subject an employe to a penalty or reduction of wages because of the exercise of such

privilege, or who shall directly or indirectly violate the provisions of this act, shall be guilty of a misdemeanor.

§ 37. CANVASSING VOTES.] The votes for the several candidates shall be canvassed, in the order in which they occur upon the several ballots. None but the official ballots shall be counted, except such as are voted in accordance with Section 19 of this act. All ballots that are defective shall be so marked and accounted for as hereinbefore provided in this act.

§ 38. THIS ACT NOT APPLICABLE—WHEN.] This act shall not apply to elections to public offices determined otherwise than by ballot, nor to election for school officers, when no other officers are to be chosen at the same election, nor to the election of township officers.

§ 39. WILFUL MISCONDUCT OF OFFICER.] Any public officer upon whom a duty is imposed by this act, who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder the objects of this act, shall be punished by a fine of not less than one hundred (100) dollars, or more than five hundred (500) dollars or by imprisonment in jail, for not more than one (1) year, or by both such fine and imprisonment. Any person having charge of official ballots, who shall destroy, conceal or suppress them, except as in this act permitted, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state's penitentiary not less than one (1) year nor more than three (3) years.

§ 40. PAMPHLET TO BE PUBLISHED AND DISTRIBUTED.] It shall be the duty of the secretary of state to cause to be published in pamphlet form and distributed through the county auditors of the respective counties a sufficient number of copies of this law, together with the registration law of the state, if any, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of election.

§ 41. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1891.

CHAPTER 58.

[S. B. 21.]

RELATING TO PUNISHMENT OF CRIMES AGAINST THE ELECTIVE FRANCHISE.

AN ACT to Preserve the Purity of the Ballot, and to Punish Crimes Committed Against the Elective Franchise.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. INFLUENCING OF VOTES.] It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

First. To pay, lend, contribute, or offer or promise to pay, lend or contribute, any money or other valuable consideration, to or for any voter or to or for any other person, to induce such voter to vote or refrain from voting at any election or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to come to the polls or remain away from the polls at such election, or on account of such voter having voted or refrained from voting, or having voted or refrained from voting for any particular person, or having come to the polls or remained from the polls at such election.

Second. To give, offer or promise any office, place or employment, or to promise to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at such election, from [for] any particular person or persons.

Third. To make any gift, loan or promise, offer procurement or agreement as before said, to, for or with any person in order to induce such person to procure or endeavor to procure the election of any person, or the vote of any voter at any election.

Fourth. To procure or engage, promise or endeavor to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person or the vote of any voter at such election.

Fifth. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same or any part thereof shall be used in bribery, at any election, or to knowingly pay or cause to be

paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

§ 2. RECEIVING OF BRIBES—UNLAWFUL.] It shall be unlawful for any person directly or indirectly, by himself or through any other person:

First. To receive, agree or contract for, before or during any election, any money, gift, loan or other valuable consideration, offer, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls at any such election.

Second. To receive any money or other valuable thing during or after an election, for himself or any other person for having voted or refrained from voting at such election, or on account of himself or any other person having voted or refrained from voting for any particular person at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or on account of having induced any other person to vote or refrain from voting for any particular person or persons at such election.

§ 3. BETS OR WAGERS.] It shall be unlawful for any candidate for public office, before or during an election, to make any bet or wager with a voter, or to take a share or interest in, or in [any] manner become a party to any bet or wager, or provide or agree to provide any money to be used by another in making such bet or wager, upon any event or contingency whatever. Nor shall it be lawful for any person directly or indirectly to make a bet or wager with a voter depending upon the result of any election, with the intent thereby to procure the challenge of such voter, or to prevent him from voting at such election.

§ 4. INTIMIDATION.] It shall be unlawful for any person directly or indirectly, by himself or any other person in his behalf, to make use of, or threaten to make use of any force, violence or restraint, or to inflict or threaten the infliction by himself or through any other person, of any injury, damage, harm or loss, or in any manner practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for any particular person or persons at any election, or on account of such person having voted or refrained from voting at any election. And it shall be unlawful for any person by abduction, duress or any forcible or fraudulent device or contrivance whatever to impede, prevent or otherwise interfere with the free exercise of the elective franchise, by any voter or to compel, induce or prevail upon any voter either to give or refrain from giving his vote at any election.

§ 5. THREATS PROHIBITED.] It shall not be lawful for

any employer in paying his employes the salary or wages due them, to enclose their pay in "pay envelopes" upon which there is written or printed any political mottoes, devices or arguments, containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes. Nor shall it be lawful for any employer within ninety (90) days of a general election, to put up or otherwise exhibit, in his factory, mill, workshop, or other establishment or place where his employes may be working, any hand-bill or placard containing any threat, notice or information, that in case any particular ticket or candidate shall be elected work in his place or establishment will cease in whole or in part, or that his establishment will be closed up, or the wages of his workmen will be reduced, or other threats, express or implied, intended or calculated to influence the political opinion or the actions of his employes in voting. This section shall apply to corporations as well as to individuals. Any person or corporation violating the provisions of this section shall be guilty of a misdemeanor. Any corporation violating the provisions of this section shall, upon proof thereof, forfeit its charter.

§ 6. TESTIMONY OF OFFENDER.] A person offending against any provisions of Section one (1) and two (2) of this act is a competent witness against another person so offending, and may be compelled to attend and testify, upon any trial, hearing, proceeding or investigation, in the same manner as any other person. But the testimony so given shall not be used in any prosecution, or proceedings, civil or criminal, against the person so testifying. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony may be given, and he may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

§ 7. PUNISHMENT OF OFFENSES.] Whoever shall violate any of the provisions of this act shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than three (3) months nor more than one (1) year. The offenses described in sections one (1) and two (2) of this act are hereby declared to be infamous crimes. When a person is convicted of any offense mentioned in sections one (1) and two (2) of this act, he shall in addition to the punishment above described, forfeit any office to which he may have been elected at the election with reference to which such offense was committed, and shall in addition be excluded from the right of suffrage for a period of five (5) years after such conviction, and it shall be the duty of the county auditor or county clerk of the county in which such conviction shall be had to transmit a certified copy of the record of conviction to the auditor or clerk of each county in this state within ten (10) days thereafter, which said certified

copy shall be duly filed by the said county auditor or clerk in their respective offices.

§ 8. AMENDMENT.] Chapter five (5) of the Penal Code of the Compiled Laws, is hereby amended to conform to the provisions of this act.

§ 9. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 10. EFFECT—WHEN.] This act shall take effect and be in force within the constitutional period after the date of its passage and approval.

Approved March 5, 1891.

CHAPTER 59.

[S. B. 43.]

PROVIDING FOR THE ELECTION OF PRESIDENTIAL ELECTORS.

AN ACT to Provide for the Election of Electors of President and Vice President of the United States.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TIME OF ELECTION.] On the Tuesday next after the first Monday in November in the year eighteen hundred and ninety-two and every four years thereafter, or on such day as the congress of the United States may direct, a poll shall be opened in each voting precinct, for the election of electors of president and vice president of the United States, the number of whom is to be equal to the number of senators and representatives in congress to which this state may be entitled, or such other number as the congress of the United States may require.

§ 2. NUMBER TO BE CHOSEN.] The names of all the electors to be chosen shall be written or printed on each ballot, and each ballot shall contain the name of at least one inhabitant of each congressional district into which the state may be divided, and against the name of each person shall be designated the number of the congressional district to which he belongs. *Provided, however,* That if no congressional districts be established,

then such ballot shall contain the name of at least one inhabitant for each member in congress at large.

§ 3. MANNER OF CONDUCTING ELECTION.] This election shall be conducted the same as directed in relation to the election of state officers, so far as the same may be applicable, and except as otherwise expressed by law providing for making and canvassing the returns of the election of electors of president and vice president of the United States.

Approved February 17, 1891.

CHAPTER 60.

[S. B. 173.]

AMENDMENT TO GENERAL ELECTION LAW.

AN ACT to amend Sections 4 and 22, of Chapter 84, Session Laws of 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PAY OF MESSENGER.] That Section four of Chapter eighty-four of the Session Laws of 1890, be amended by adding thereto the following words: "*Provided*, That the state auditor shall draw his warrant upon the state treasurer, in favor of such messenger, for the full amount due him on account of such mileage when a proper voucher, approved by the secretary of state, shall be presented to him therefor."

§ 2. PAYMENT OF EXPENSES OF SECRETARY.] That Section twenty-two of Chapter eighty-four of the Session Laws of 1890 be amended by adding thereto the following words: "And the state auditor shall draw his warrant upon the state treasurer, in favor of the secretary of state, for the full amount of the expense incurred by him in carrying out the provisions of this section."

§ 3. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1891.

FARMERS' INSTITUTES.

CHAPTER 61.

[H. B. 157.]

AUTHORIZING THE HOLDING OF FARMERS' INSTITUTES.

AN ACT Authorizing the Board of Trustees and Regents of Education of the South Dakota Agricultural College to Appoint and Hold Farmers' Institutes for the Purpose of Instruction in the Most Modern and Scientific Methods of Stock-raising, Dairying, etc.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD OF TRUSTEES MAY HOLD INSTITUTES.] That the board of trustees of the state agricultural college of South Dakota, with the approval of the regents of education, be and are hereby authorized to appoint and hold farmers' institutes in various places throughout the State of South Dakota, at such times and places as they in their judgment may deem best for the more complete instruction in the best methods of scientific and modern farming, stock-raising, butter and cheese making, and other subjects of interest and importance to the common farmers.

§ 2. EMERGENCY.] Whereas an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 7, 1891.

FEES.

CHAPTER 62.

[H. B. 209.]

REGULATING FEES OF THE OFFICE OF SECRETARY OF STATE.

AN ACT to Regulate the Fees of the Office of the Secretary of State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FEES—MUST COLLECT IN ADVANCE.] The secretary of state shall charge the following fees for services performed in his office, and shall collect the same in advance:

For examination, filing and recording of articles of incorporation of domestic corporations, except religious, charitable, benevolent and fraternal associations, and issuing charter, ten dollars.

For examination, filing and recording of articles of incorporation of religious, charitable, benevolent and fraternal associations. three dollars.

For examination and filing of articles of incorporation of foreign corporations and issuing certificate of authority to do business in this state, ten dollars.

For filing and recording appointment of resident agent of foreign corporations and issuing certificate, two dollars.

For examination of annual statement of building and loan associations and issuing certificate of authority, five dollars.

For filing, recording and safe keeping of any instruments, or papers, required by law to be filed and recorded in his office, per folio of one hundred words, twenty cents.

For making transcript of any record, instrument or paper, on file in his office, per folio of one hundred words, twenty cents.

For filing and safe keeping of official bonds, official oaths, or any other instrument or paper required by law to be filed only, fifty cents.

For each commission, requisition, passport, or other document, signed by the Governor and attested by the Secretary of State, under the great seal of the state, and making the proper record of the same, two dollars.

For appointment and commission of Commissioner of Deeds, five dollars.

For official certificate, or attestation, and impression of the great seal, one dollar.

For examination and filing of amendments of articles of incorporation, one dollar.

For each search of the records of his office, fifty cents.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 63.

[S. B. 108.]

FIXING FEES OF COMMISSIONER OF SCHOOL AND PUBLIC LANDS.

AN ACT Fixing Fees in the Office of the Commissioner of School and Public Lands.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FEES.] That there shall be paid by the party, or parties, who shall hereafter lease, or purchase of the State of South Dakota, any school or public lands, the following fees, viz: For each lease, seventy-five cents; for each contract for lands purchased, one dollar, and for each patent, one dollar and twenty-five cents, to be paid at the time the lands are leased, or sold, as provided by law for the payment of principal and interest. *Provided*, That the fee to be paid for patent shall not be paid until final payment of principal and interest.

§ 2. COUNTY TREASURER TO COLLECT.] The fees provided for in section 1, of this act shall be remitted by the several county treasurers, whose duty it is to collect the same, to the state treasurer to be by him credited to the general fund.

§ 3. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved February 17, 1891.

CHAPTER 64.

[H. B. 249.]

INSURANCE FEES.

AN ACT to Amend Section 39 of Chapter 29 [69] of the Session Laws of the Territory of Dakota of 1885, being Section 3076 of the Compiled Laws of the Territory of Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 39, Chapter 69 of the Session Laws of the Territory of Dakota for the year 1885, being Section 3076 of the Compiled Laws of 1887 be amended by striking out the words, "Provided, That the net amount of all fees over and above the cost of performing the clerical labor connected therewith shall not exceed under this act, the sum of two thousand (\$2,000) dollars, and that any amount above that sum shall be paid over to the territorial treasurer for the general fund of the territory."

Approved March 7, 1891.

CHAPTER 65.

[S. B. 146.]

Campbell Co. v. Owsley, 108 NW 247

RELATING TO FEES OF STATE AND COUNTY OFFICERS.

AN ACT Relating to and Defining the Salary and Fees of State and County Officers, and Providing for the Payment of the Fees Received by such Officers into the State and County Treasuries.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FEES TO BE TURNED OVER MONTHLY.] That all county and state officers for whose services a salary is provided by law, shall receive no compensation for their services other than that so provided by law, and all fees received by them under any of the existing provisions of law shall be paid by the officer so receiving the same into the county or state treasury, as the case may be, at the end of each and every

month, and when not under any provision of law credited to a special fund, shall be placed to the credit of the general fund of the county or state. *Provided, however,* That this act shall not be so construed as to in any manner effect any officer who receives no salary other than the fees paid for his services, nor to register of deeds for making abstracts of title.

Approved March 7, 1891,

CHAPTER 66.

[S. B. 78.]

RELATING TO PRINTERS' FEES.

AN ACT to Amend Section 22 of Chapter 39 of the Political Code, as Amended by Subsequent Statutes, the same being Section 1430 of the Compiled Laws of 1887, relating to Printers' Fees.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT—RATES—MEASUREMENT.] That Section 22 of Chapter 39 of the Political Code, as the same was amended by Section 1, of Chapter 51, of the Session Laws of 1887, of the Territory of Dakota, be and the same is hereby amended so as to read as follows, to-wit:

“In all cases where publication of legal notices of any kind is required or allowed by law, the person or officer desiring such publication shall be required to pay at the rate of seventy-five cents per square of twelve lines of nonpareil type, or its equivalent, for the first insertion, and fifty cents per square for each subsequent insertion, and in all cases of publication of notices in connection with sales upon execution, the plaintiff, except in divorce cases, may designate the newspaper, published within the county, in which such notice shall be published. All legal advertisements containing less than a square, as above defined, shall be paid for at the rate of ten cents per line of nonpareil type or its equivalent, for each insertion, but the amount to be paid for such fractional part of a square shall not exceed the amount to be paid for a full square, as above provided.

§ 2. REPEAL.] All acts or parts of acts in conflict or inconsistent with the provisions of this act are hereby repealed.

Approved February 9, 1891.

FENCES.

CHAPTER 67.

[S. B. 41.]

REGULATING THE KEEPING OF STOCK.

AN ACT to Regulate the Keeping of Stock in Unorganized Counties and in Counties that may Hereafter be Organized, and in Counties that have been Organized Subsequent to March 12, 1885.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SPECIAL LAWS MADE GENERAL.] That the provisions of chapter seventeen (17) of the special laws of the sixteenth (16th) legislative assembly of the Territory of Dakota, approved March 12, 1885, being an act entitled an act to establish a fence law in the counties of Fall River, Custer, Pennington, Lawrence, Butte, Harding, Burdick, Ewing, Bowman and all [of] Billings, be and the same is hereby enacted and adopted and made general as to all unorganized counties and to counties that may hereafter be organized and in counties that have been organized subsequent to March 12, 1885, in the State of South Dakota until such time as a majority of the qualified electors of such counties or any of them shall at a general election otherwise decide.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 24, 1891.

CHAPTER 68.

[H. B. 245.]

REGULATING THE KEEPING OF STOCK.

AN ACT to Amend Section Two (2) of Chapter Seventeen (17) of the Session Laws of the Late Territory of Dakota, Approved March 12, 1885, Entitled "An Act to Establish a Fence Law in the Counties of Fall River, Custer, Pennington, Lawrence, Butte, Harding, Burdick, Ewing, Bowman and all of Billings."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section two (2), Chapter seventeen (17) of the session Laws of the Territory of Dakota, approved March 12, 1885, be amended to read as follows: "Section 2. Posts or other uprights of reasonable strength and firmness in position not more than thirty-two (32) feet distant from each other, with two (2) suitable stays between posts, nearly equally dividing such space into three parts, with three (3) strands of ordinary barbed fence wire, well stretched and firmly fastened to such posts, uprights and stays, with the upper strand not more than forty-eight (48) nor less than forty-two (42) inches above the general surface of the ground thereunder, and the lower strand shall not be more than eighteen (18) nor less than twelve (12) inches above the general surface of the ground thereunder, and the middle strand shall nearly equally divide the space between the upper and lower strands. And it shall be unlawful for any person or persons to maintain a fence consisting of one wire, or to permit any of the wires of a fence constructed under the provisions of this section to become loose; that any person or persons maintaining a fence consisting of one wire, or who shall permit any of the said wires to become loose, shall be liable in damage sustained by the owner of any live stock that may be injured thereby."

§ 2. REPEAL.] That all acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1891.

FIREARMS.

CHAPTER 69.

[H. B. 29.]

PREVENTING THE DISPOSAL OF FIRE-ARMS TO INDIANS AND HALF-BREEDS.

AN ACT to Prevent the Disposal of Fire-arms and Ammunition to Indians and Half-breeds, in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota.

§ 1. SALE UNLAWFUL.] That it shall be unlawful for any person or persons in the State of South Dakota to sell, barter or give away, in any manner, to any Indian or half-breed who has not fully renounced his tribal relations and severed all connection therewith, any fire-arms or ammunition of any kind or description.

§ 2. PENALTY.] Any person or persons violating the provisions of Section 1, of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, or imprisonment in the county jail for a term of not less than three months nor more than one year, or both such fine and imprisonment, for each and every offense, at the discretion of the court.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] Whereas an emergency is declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved January 27, 1891.

FISCAL YEAR.

CHAPTER 70.

[S. B. 167.]

ESTABLISHING A FISCAL YEAR.

AN ACT to Establish a Fiscal Year for the State of South Dakota and Fixing the Time of Making and Filing all Reports to the Governor and Legislature, Required by Law

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. FISCAL YEAR ESTABLISHED—REPORTS.] The fiscal year for the State of South Dakota, in all matters of accounts, receipts, expenditures, estimates and appropriations shall commence on the first day of July and end on the 30th day of June in each year, and all reports of receipts and expenditures required by law to be made annually to the governor by state officers, the board of regents of education, the board of charities and corrections, the trustees of the soldiers' home and by any other officer or institution, shall be made to embrace all of the receipts and expenditures and other business done during the fiscal year above named. And all such reports required by law to be made biennially to the governor or legislature of the state shall be made to include the receipts, expenditures and other transactions for two fiscal years ending with the 30th day of June preceding the biennial session of the Legislature. *Provided*, That appropriations shall be made for all purposes for the fraction of a year commencing March 8, 1891, and ending June 30, 1891.

§ 2. REPORTS FILED—WHEN.] All reports made under this act shall be filed in the office of the governor on or before November 1, after the date such reports are required to be made.

§ 3. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 5, 1891.

FUGITIVES FROM JUSTICE.

CHAPTER 71.

[S. B. 176.]

PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE.

AN ACT to Amend Sections 592 and 593, Code of Criminal Procedure, being Sections 7646 and 7647 of the Code of Criminal Procedure of the Compilation of 1887, Entitled "Proceedings against Fugitives from Justice."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 592 of the code of criminal procedure, being section 7646 of the compiled laws of 1887, be amended to read as follows:

"Whenever the governor of this state shall demand from the executive authority of a state or territory of the United States, or of a foreign government, the surrender to the authorities of this state of a fugitive from justice, the accounts of the persons employed by him for that purpose must be paid out of the county treasury of the county where the crime is alleged to have been committed and to which said fugitive is returned for trial.

Provided, that the persons employed by virtue of this section shall receive for their services three dollars (\$3.00) per diem and actual expenses while actually and necessarily employed and no more."

§ 2. AMENDMENT.] That section 593 of the code of criminal procedure, being section 7647 of the compiled laws of 1887, be amended to read as follows:

"That no compensation, fee or reward of any kind shall be paid to or received by any person for service rendered or expense incurred in procuring from the governor the demand mentioned in the preceding section, for the arrest or the surrender of the fugitive, or for conveying him to the county in which the alleged crime for which he is arrested is claimed to have been committed, except as provided in section 1 of this act."

§ 3. REPEAL.] That all acts and parts of acts in conflict with this act are hereby repealed.

§ 4. EMERGENCY.] Whereas, there is no law now in force providing for the payment by counties of this state for

expenses incurred in arresting and returning thereto fugitives from justice for trial, an emergency is declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1891.

FUNDING WARRANTS.

CHAPTER 72.

[S. B. 222.]

PROVIDING FOR THE ISSUE OF FUNDING WARRANTS.

AN ACT to Provide for the Issue of Funding Warrants.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. WARRANTS—HOW ISSUED.] The state treasurer, with the advice and consent of the governor and auditor, is hereby authorized and directed to issue funding warrants in an amount equal to outstanding state warrants whenever such funding warrants can be negotiated at their face value or a premium thereon, and such warrants shall be subject to the same provisions of law as to the rate of interest thereon and otherwise as all other warrants on the state treasury. All money received from the negotiation of such funding warrants shall be applied to the payment of other warrants then outstanding, and such funding warrants shall be paid out of the revenue appropriated for the payment of the outstanding warrants for which they are substituted. *Provided, however, that no warrant shall be drawn on any fund in excess of the sum appropriated by law.*

§ 2. OBJECT.] The object and intent of this act shall be so construed as to protect the public credit, to secure the funding of all floating warrants and to prevent the sale of any state warrants hereafter issued at a sum less than its face value.

§ 3. PUBLIC DEBT NOT TO BE INCREASED.] This act shall

not be construed so as to authorize in any way the increase of the public debt.

§ 4. EMERGENCY.] There being no sufficient provisions of law for the funding of outstanding state warrants, therefore an emergency exists and this act shall take effect from and after its passage [and approval.]

Approved March 4, 1891.

GRAND JURIES.

CHAPTER 73.

[H. B. 12.]

TO REDUCE THE NUMBER OF GRAND JURORS.

AN ACT to Amend Section 6 of Chapter 19 of the Political Code as Amended by Section 1 of Chapter 62 of the Laws of the Territory of Dakota, A. D. 1885, being Section 445 of the Compiled Laws, and Section 165 of the Code of Criminal Procedure, being Section 7192 of the Compiled Laws relating to Grand Juries.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. NUMBER OF GRAND JURORS.] That Section number six of Chapter nineteen of the political code as amended by Section one of Chapter sixty-two of the laws of the Territory of Dakota, A. D. 1885, being Section 445 of the Political Code, Compiled Laws, Dakota, 1887, be amended by striking out the word "sixteen" where it occurs in the third line of said section, and inserting in lieu thereof the word "six," and striking out the word "twenty-three" where it occurs in the fourth line of said section, and inserting in lieu thereof the word "eight."

§ 2. NUMBER OF JURORS TO FIND AN INDICTMENT.] That Section 165 of the Code of Criminal Procedure, being Section number 7192 of the Code of Criminal Procedure, Compiled Laws of Dakota, 1887, be amended by striking out the

word "twelve" where it occurs in the third line of said section, and inserting in lieu thereof the word "five."

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1891.

HEALTH.

CHAPTER 74.

[S. B. 157.]

ESTABLISHING A BOARD OF HEALTH AND REGULATING THE PRACTICE OF MEDICINE.

AN ACT to Establish a Board of Health and Regulate the Practice of Medicine in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD OF HEALTH TO BE APPOINTED—TERM OF OFFICE.] The governor of this state shall, within ten days after taking effect of this act, appoint a board of public health which shall consist of three members, who shall be resident physicians in good standing in this state, and who shall hold office for the term of three years. *Provided*, That one of the members first appointed shall hold office for one year, and one for two years, and the governor shall designate who of the members shall hold office for the terms named.

§ 2. APPOINTMENT MADE BY GOVERNOR.] The governor shall, on the first Monday of April, of each year, appoint a member, who shall be a resident physician of the state, in good standing, to fill the vacancy occurring. The governor shall also have power to fill in like manner a vacancy occurring at any time in said board.

§ 3. OFFICERS.] The member whose term of office shall first expire shall be the president and superintendent of said board, and the member whose term of office shall be second to expire shall be secretary.

§ 4. SECRETARY TO KEEP RECORD.] The secretary shall keep a correct record of all the proceedings of the state board of health, and such records shall always be open to the public for inspection.

§ 5. POWERS AND DUTIES.] Said board of public health shall meet at the place designated by the president on the first Tuesday of May and November of each year, and shall have the powers as following:

1. To make rules and regulations for the government of said board, its officers and its meetings.

2. To make and enforce any and all needful rules and regulations for the prevention and cure, and to prevent the spread of any contagious, infectious or malarial diseases among persons and domestic animals.

3. To establish quarantine, and isolate any person affected with contagious or infectious disease.

4. To isolate, kill or remove any animal affected with contagious or infectious disease.

5. To remove, or cause to be removed, any dead, decaying or putrid body, or any decayed, putrid or other substance that may endanger the health of persons and domestic animals.

6. To condemn and cause to be destroyed any impure or diseased article of food that may be offered for sale.

7. To superintend the several boards of health in cities, villages and towns, and the county board of health in the several counties.

8. To empower and direct the superintendent of public health to do or cause to be done any or all of the things mentioned in subdivisions 3, 4, 5, 6 and 7 of this section.

§ 6. COMPENSATION OF SUPERINTENDENT.] The superintendent of public health shall be paid five dollars per day for each day necessarily employed in his official duties, and the further sum of five cents per mile for every mile actually and necessarily traveled in the performance of his official duties, and such other sum or sums as he may necessarily pay or become liable to pay, for the official books, records and papers kept by him, and for the printing of his reports, and such circulars and blanks as may be received [required] for the proper conduct of the business of his office, not to exceed in the aggregate the sum of two hundred dollars, in any one year. The accounts of the superintendent for his mileage and said other expenses of his office shall be audited by the state board of health, and the same together with his salary shall be paid out of the state treasury.

§ 7. CERTAIN EXPENSES ALLOWED.] The officers other than the superintendent or president shall receive no compensation for services, but they shall receive five cents for

every mile traveled necessarily in attending to their official duties, also they shall receive pay for all necessary expenses incurred while acting officially as members of the state board of health.

§ 8. COUNTY BOARDS OF HEALTH.] At the first meeting of the said state board of health, which shall be thirty days after their appointment, the members thereof shall appoint two lawful physicians from each county, residents thereof, one for the term of one year and one for the term of two years, who, with the state's attorney of the county from which they are appointed, shall constitute a county board of health for such county. The state's attorney shall be the president of such county board of health. The physician holding the short term of office shall be superintendent of the county board of health. The physician holding the long term shall be the vice president of said board, who shall preside in the absence of the president.

§ 9. APPOINTMENT MADE BY THE STATE BOARD OF HEALTH.] Each subsequent year the state board of health shall appoint a physician as before to fill the position on the county board of health becoming vacant.

§ 10. VACANCY—HOW FILLED.] Should a vacancy occur in any of the county boards of health from any cause other than the expiration of the time for which a member has been appointed, the superintendent of the state board of health shall, upon proper notification of such vacancy, proceed to appoint a proper person to fill such vacancy.

§ 11. DUTIES OF OFFICERS OF COUNTY BOARDS.] The president of each county board of health shall preside at the meetings thereof. The county superintendent of health shall be ex-officio secretary of the board of health of his county. The said county superintendent of health shall keep a record of all the proceedings of said board, and of his official acts, and shall, at the end of every month, make a full report in writing to the superintendent of public health of the proceedings of the county board of health and of his official acts, and shall, whenever danger to the health of any persons or domestic animals are threatened, or whenever any contagious or infectious disease occurs in his county, either among persons or domestic animals, immediately report the same to the superintendent of public health.

§ 12. MEETINGS OF COUNTY BOARD.] The several county boards of health shall meet at the county seat in their respective counties, at such time within thirty days after the appointment of the county superintendent of health as he may designate. Notice of time and place of said meeting shall be by him given to the other members of said county board, at least five days prior to said meeting, and thereafter said county

board of health shall meet at the county seat as often as deemed necessary by the superintendent.

§ 13. POWERS AND DUTIES OF COUNTY BOARD.] The county boards of health shall have power within their respective counties, subject to the supervisory control of the state board of health and the superintendent of public health, to do and perform all the things mentioned in subdivisions 2, 3, 4, 5 and 6 of Section 5. All expenses actually and necessarily paid or incurred by the county boards of health in carrying out the provisions of this act shall be audited by said board and certified to the county commissioners of the county where such expenses are incurred, and shall be paid the same as other county expenses are paid.

§ 14. POWERS AND DUTIES OF COUNTY SUPERINTENDENT OF HEALTH.] The county superintendent of health shall have charge of and superintend, subject to the approval of the board of which he is a member, and the supervisory control of the state board of health and superintendent of public health, all the matters and things mentioned in subdivisions 3, 4, 5 and 6 of Section 5, within his county, and in case of immediate danger to health of persons or domestic animals he may act as in his judgment he may deem best, without consultation with the members of the county board of health, for the prevention of said danger, and he shall immediately report such action to the president of the county board of health, and to the superintendent of public health.

§ 15. COMPENSATION.] The president of the county board of health shall receive no other compensation than that which is provided for; shall receive five cents for every mile actually and necessarily traveled in the performance of his duties as a member of said board. The county superintendent of health shall receive five cents per mile for every mile actually and necessarily traveled in the performance of his duties, and such other sum as the commissioners may allow, not to exceed the sum of one hundred dollars in any one year, and he shall receive such other sum or sums as he may necessarily pay or become liable to pay in carrying out and performing the various duties imposed upon him under the provisions of this act, or by the county board of health, all of which accounts for service, mileage and other expenses shall be audited by the county board of health, and certified to the county commissioners of the county, and paid as other county expenses are paid.

§ 16. REPORTS.] The superintendent of public health shall, on the first day of December, 1893, and biennially thereafter, make a full report to the governor, and to the legislative assembly of the State of South Dakota, which report shall show all that has been done by the state board of health, and by such

superintendent of public health during the two years preceding the making of such report, the number of cases treated by said superintendent of public health, and in each of the counties by the county superintendent of health, the character and extent during such time of all the contagious or infectious diseases that have been reported to said superintendent of public health; and he shall also report a full statement of all expenditures by said state board of health, and in each of the organized counties in this state by the county boards of health, and he shall also report such recommendations as he may deem advisable for the better protection of public health, and the prevention and cure of contagious and infectious diseases of persons and of domestic animals.

§ 17. MEDICINE--WHO MAY PRACTICE.] No person shall be permitted to practice medicine or surgery in any of the departments in this state unless he or she be a graduate of a lawful medical college, and no person shall practice medicine [or] surgery unless he be of good moral character and is not an habitual drunkard. Any person possessing the qualifications mentioned in this section shall, upon the presentation of his diploma, or a certified copy thereof from the college where said applicant graduated, if the same is lost or destroyed, together with a fee of five dollars, which sum shall be applied as a part of the superintendent's salary, receive from such superintendent of public health a license, certifying the applicant to be a practicing physician, and having the qualifications for such prescribed by this section, which license shall be recorded in the office of the register of deeds in the county where such practicing physician resides. Any person who practices medicine or surgery or attempts to practice the same without complying with the provisions of this section shall be deemed guilty of a misdemeanor, and any person shall be regarded as practicing medicine within the meaning of this section who shall profess publicly to be a physician and to prescribe for the sick, or who appends to his name the letters "M. D.," but nothing in this section shall be construed to prohibit students from prescribing, under the supervision of preceptors, or to prohibit gratuitous services in case of emergency, nor shall this section apply to commissioned surgeons in the United States army and navy. Any person violating the provisions of this act, or who shall prevent or attempt to prevent the several officers of the public health, or persons employed by them, from performing any of the duties prescribed in this act to be performed by any such officer, or any practicing physician who shall fail to report to the county superintendent of public health the existence of any contagious or infectious diseases, and any person who shall willfully conceal any case of contagious or infectious disease,

either among persons or animals, shall be deemed guilty of a misdemeanor.

§ 18. **LAWFUL PRACTITIONERS NOT AFFECTED.]** This act shall not affect those now in lawful practice of medicine, surgery and obstetrics in this state.

§ 19. **STATE BOARD OF HEALTH MAY CANCEL LICENSE.]** The state board of health shall, upon complaint being made to it on oath by two responsible persons, have power to cancel any license that may have been issued to any applicant for the practice of medicine, when such license was fraudulently obtained, or when the person to whom such license was issued is an habitual drunkard, is guilty of immoral practices or gross unprofessional conduct. *Provided*, That an appeal may be taken to the circuit court of the county in which he lives, by any person aggrieved thereby in the same manner as now provided by law, in cases of appeal from the decisions of county commissioners.

§ 20. **REPEAL.]** All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1891.

HIDES.

CHAPTER 75.

[S. B. 218.]

RELATING TO BRANDED HIDES.

AN ACT to Amend Section 2274, Compiled Laws of 1887, Relating to Hides.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. **AMENDMENT.]** That Section 2274, Compiled Laws of 1887, be and the same is amended by adding the following: *Provided*, That the provisions of this act shall apply only to branded hides.

§ 2. **EFFECT—WHEN.]** This act shall take effect and be in force ninety days after the adjournment of [the] legislature.

Approved March 7, 1891.

HOMESTEAD.

CHAPTER 76.

[S. B. 91.]

RELATING TO THE CONVEYANCE OR INCUMBRANCE OF THE HOMESTEAD.

AN ACT to Amend Section Three (3) of Chapter Thirty-eight (38) of the Political Code, Relating to the Conveyance or Incumbrance of the Homestead.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section three (3) of Chapter thirty-eight (38) of the Political Code is hereby amended so as to read as follows:

SEC. 3. A conveyance or incumbrance by the owner of such homestead shall be of no validity unless the husband and wife, if the owner is married, and both husband and wife are residents of this state, concur in and sign the same joint instrument; *Provided, however*, if the husband or wife of the owner of the homestead is an inmate or patient of any insane asylum, the conveyance or incumbrance of the homestead shall be valid without the signature or concurrence of such insane husband or wife. *Provided, further*, Before the conveyance or incumbrance of the homestead shall be valid without the signature or concurrence of such insane husband or wife, the husband or wife who is the owner of the homestead shall petition the county court for an order authorizing such conveyance or incumbrance of the homestead to be made, which petition shall set forth that the husband or wife of the owner is insane, and the facts and circumstances on which the petition is founded, and description of the real estate sought to be conveyed or incumbered, and there shall be attached to said petition the certificate of the superintendent or manager of the insane asylum or the hospital for the insane that the husband or wife of the owner of such homestead is an inmate or patient of such insane asylum or hospital for the insane. Whenever any such petition is filed in any county court of this state it shall be the duty of such court, or the judge thereof, to fix a time for hearing such petition, not less than four or more than seven weeks from the time

of filing such petition, and to cause notice of such hearing to be given by publication of a notice thereof in some newspaper, published in the county in which the petition is filed, at least once a week for three successive weeks prior to such hearing, and upon the hearing of such petition, if the court or judge shall find that the facts set forth in such petition are true, and that there is no intent to defraud or injure the interest of such insane husband or wife in such homestead, the court or judge may make an order authorizing the conveyance or incumbrance of such homestead by the owner thereof without the signature or concurrence of such insane husband or wife.

§ 2. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, there is now no law relating to the provisions of this act, an emergency exists, and this act shall be in force and effect from and after its passage and approval.

Approved February 18, 1891.

CHAPTER 77.

[S. B. 151.]

CONVEYANCE OF HOMESTEADS.

AN ACT Relating to the Conveyance of Homesteads.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. CERTAIN INSTRUMENTS VALID.] A conveyance of the homestead shall be valid and legal if the husband and wife, in case the owner is married, shall both execute such conveyance, whether the same be by joint instrument or by separate instruments.

§ 2. CERTAIN INSTRUMENTS LEGALIZED.] All conveyances of the homestead heretofore made, where the owner thereof was married at such time, are hereby legalized and declared valid, provided the husband and wife have each executed such conveyance, whether the same was by joint instrument or by separate instruments at different times.

§ 3. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

INSANE.

CHAPTER 78.

[H. B. 246.]

RELATING TO THE EXPENSE OF CONVEYING INSANE PERSONS.

AN ACT to Reduce the Expense of Conveying Insane Persons to the Hospital for the Insane.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DUTY OF COUNTY JUDGE—SUPERINTENDENT MUST SEND ATTENDANT.] Whenever a person shall, by the competent authority provided by the laws of this state, be adjudged insane, it shall be the duty of the county judge of the county in which such person is so adjudged, to notify the superintendent of the hospital for the insane, and in case it shall be determined to receive such person so adjudged insane into such hospital for the insane for care and treatment, the said superintendent of the hospital for the insane shall forthwith send a suitable person from among the employes of the hospital for the insane, who has had experience in the care of insane persons, to such county seat of such county in which such person so adjudged insane resides or is held, which said employe so sent shall act as attendant for and shall take charge of such insane person, while enroute to the hospital for the insane. If it shall be determined by such employe, attendant and the county judge that help is necessary in conveying such insane person to the hospital for the insane, then and in that case the said judge shall appoint a suitable person to assist such employe or attendant in so conveying such insane person to the hospital for the insane, and the expenses of such assistant attendant shall be paid by the state. The assistant attendant shall receive as pay the sum of two (2) dollars per day for each day actually spent in the performance of the duty imposed upon him. The employe attendant sent or detailed by the superintendent of the hospital for the insane shall receive no pay for these services specially, and the expenses of his trip shall be charged up as incidental expenses of the hospital for the insane, and a record of the expenses in each case shall be preserved and reported as in case of other special expenses. The assistant attendant shall

receive a certificate from the superintendent of the hospital for the insane as to the fact that he so acted as such assistant in such case, and shall by affidavit submit a statement of his expenses incurred in making such trip to the hospital for the insane and return, which said statement shall be verified by receipt for all moneys expended together with the amount of his per diem allowed by this act, shall by the county judge be certified to the state auditor, who shall approve the same, if correct, and issue an order or warrant on the state treasurer for the amount so audited.

§ 2. EXPENSES ADVANCED BY COUNTY TREASURER.] The expenses of such insane person and the assistant attendant, if any be employed, including railroad fare, stage fare and other necessary expenses incurred while enroute to the hospital for the insane shall be advanced by the treasurer of the county in which such person is so adjudged insane upon the order of the commissioners of insanity of such county, and the amount of such expenses so incurred shall on the proper certificate from the county judge be audited by the state auditor and paid by the state treasurer as hereinafter provided.

§ 3. EXPENSES—HOW PAID.] All bills of expense connected with the conveyance of insane persons to the hospital for the insane shall be made in writing, fully itemized, with vouchers for all moneys expended and verified by the oath of the person having charge of the insane person, and accompanied by the receipt of the superintendent of the hospital for the insane for the delivery of such insane person, and when approved by the proper authority shall be paid out of the state treasury. When the commissioners of insanity order the return of a patient, compensation and expense shall in like manner be paid out of the state treasury.

§ 4. RELATIVE MAY TAKE CHARGE OF INSANE PERSON.] Whenever any relative or member of the family of the person so adjudged insane may desire to take charge of the conveying such person to the hospital for the insane it shall be lawful for the county judge to authorize such relative or member of the family of the insane person to take charge of such person in conveying him or her to the hospital for the insane. *Provided*, That in the judgment of said county judge such relative or member of the family be a competent person for that purpose; and *Provided, further*, That it shall be determined by the said county judge that such insane person can with safety be entrusted to the care of such relative while enroute. The superintendent of the hospital for the insane shall receipt and certify to the person delivering such insane person in the same manner as in other cases when insane persons are received. Such relative or member of the family shall be entitled to receive pay for the necessary expenses of the trip, which shall be cer-

tified in manner provided in Sections two (2) and three (3) of this act, in cases of attendants or assistant attendants.

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 6. EMERGENCY.] Whereas an emergency exists; this act shall be in force and take effect from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 79.

[S. B. 122.]

PROVIDING FOR THE EXPENSE OF MAINTENANCE OF INSANE PATIENTS.

AN ACT Providing for the Expenses of Insane Patients in the Hospital for the Insane.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CHARGE UPON COUNTY SENDING.] That hereafter the expenses for the care, board and keeping of patients in the Hospital for the Insane shall be a charge upon each county sending such patient or patients to the hospital as hereinafter provided.

§ 2. DUTY OF SUPERINTENDENT.] When the superintendent of the Hospital for the Insane has been duly notified that a patient sent to the hospital from one county has a legal settlement in another county he shall thereafter hold and treat such patient as from the latter county, and such holding shall apply to expenses already incurred in behalf of such patient and remaining unadjusted.

§ 3. CERTAIN EXPENSES REFUNDED.] Expenses incurred by one county on account of an insane person whose legal settlement is in another county, shall be refunded with lawful interest thereon, by the county of such settlement, and shall be presented to the board of commissioners of the county sought to be charged, allowed and paid the same as other claims.

§ 4. BOARD OF CHARITIES AND CORRECTIONS TO FIX RATE.] The board of charities and corrections shall from time to time fix the sum to be paid per month for the board and care

of the patients, which shall not exceed the sum of sixteen (\$16) dollars per month, and the monthly sum so fixed shall be the sum the said hospital shall be entitled to demand for keeping any patient, and the certified [certificate] of the superintendent subscribed and sworn to by him shall be evidence in all places of the amount due as fixed.

§ 5. COUNTY COMMISSIONERS TO LEVY TAX.] The superintendent shall certify to the state auditor on the first day of January, April, July and October of each year the amount not previously certified to by him that is due the said hospital from the several counties having patients chargeable thereto, and said auditor shall pass the same to the credit of the hospital. The state auditor shall thereupon notify the county auditor of each county so owing of the amount thereof, and charge the same to said county, and the board of county commissioners shall levy a tax in said county for said amount, and pay the amount due the state into the state treasury, and should any county within one year from the taking effect of this act fail to levy such tax sufficient to pay the amount then due said state, and shall fail at the time of levying other county taxes, thereafter to levy the tax aforesaid to an amount sufficient to pay the indebtedness subsequently incurred it shall be the duty of the attorney general to bring, in the name of the state, an action against any county so failing as aforesaid to enforce the levying of said tax.

§ 6. STATE AUDITOR TO CHARGE DELINQUENT COUNTY.] That upon the failure of any county to levy such tax as aforesaid to an amount sufficient to pay the amount then due the state, it shall be the duty of the state auditor to charge such delinquent county with a penalty of three per centum per month upon the amount of indebtedness, then six months due, for each month until payment thereof and penalty thereon be paid.

§ 7. COUNTY TREASURER TO PAY STATE TREASURER.] It shall be the duty of the county treasurer, upon the collection of the taxes herein required to be levied, to pay into the state treasury the amount due and owing from his county at the times and in the manner required for the payment of state taxes collected.

§ 8. TAXES NOT TO BE USED FOR ANY OTHER PURPOSE.] Taxes levied and collected in any county for the purpose named in this act shall be used only to defray the expenses of the insane which are chargeable to such county, and shall not be diverted to any other purpose, nor be transferred to any other fund.

§ 9. PENALTY.] Any member of the board of county commissioners or any county treasurer who shall violate any of the provisions of this act shall be liable to a fine of not less

than one hundred nor more than five hundred dollars, to be recovered in an action brought against him in the county court of his county in and for the judicial circuit in which said county is a part, in the name of the state, by the attorney general.

§ 10. STATE AUDITOR TO NOTIFY.] The state auditor shall notify the several county auditors and county treasurers of the provisions of this act, and it shall be the duty of said officers to present said notice to the board of county commissioners at their first meeting thereafter.

11. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

IRRIGATION.

CHAPTER 80.

122 m. 664

[S. B. 201.]

PROVIDING FOR THE SINKING OF ARTESIAN WELLS FOR PUBLIC PURPOSES.

AN ACT Authorizing Civil Townships to Sink Artesian Wells for Public Purposes and to Issue Bonds Therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. WATER OF ARTESIAN BASIN PUBLIC PROPERTY.] That the water of the artesian basin underlying or being in the shale formation, in all townships in the State of South Dakota which shall petition for and sink artesian wells as hereinafter provided, and not heretofore appropriated, is hereby declared to be the property of the public and is dedicated to the use of the people of the State of South Dakota subject to appropriation as hereinafter provided.

§ 2. NUMBER OF WELLS IN EACH TOWNSHIP—WHEN LOCATED.] Whenever twenty or more persons, each owning not

less than eighty acres of land in any civil township in the State of South Dakota, shall make an application in writing to the state engineer of irrigation, requesting him to locate within said civil township artesian wells, not to exceed nine in number if said wells shall be six inches in diameter, and not to exceed sixteen in number if said wells shall be four and one-half inches in diameter, for the purpose of supplying the public with the water, it shall be the duty of said engineer, within ten days from the presentation to him of said application, to locate or cause to be located in said township the number of wells mentioned in said application, not exceeding nine if said wells be six inches in diameter, and not exceeding sixteen if said wells be four and one-half inches in diameter, at such places as shall, in the judgment of the state engineer of irrigation best subserve the interest of all the resident land holders of the township.

§ 3. APPLICATION AND REPORT TO BE FILED.] The state engineer shall, within twenty days after the receipt of said written application, file the same together with his report locating said well, in the office of the register of deeds in and for said county.

§ 4. REPORT TO CONTAIN WHAT.] The report of the state engineer, mentioned in Section 3 of this act, shall state the number of wells, the size of each well and the exact location of the same, together with a full description thereof.

§ 5. NOTICE TO BOARD OF SUPERVISORS OF FILING OF APPLICATION AND REPORT.] The register of deeds of the county in which said application and report have been filed shall immediately prepare and deliver to the chairman of the board of supervisors of the township in which said wells are located, a notice that the application to the engineer asking for the location of artesian wells, together with the report of the engineer, has been filed for record in said office of register of deeds. Said notice shall state the number and location of the wells, together with the size thereof, and the said register of deeds shall file in his own office a duplicate of said notice with the date of delivery to the chairman of the board of supervisors of the said township endorsed thereon.

§ 6. VOTING OF BONDS.] The chairman of the board of [supervisors of] said township shall, within five days after the receipt of said notice from the register of deeds, cause to be posted in five public places in said township, a notice to the electors of said township, stating the time and place of an election to be held in said township for the purpose of voting upon the question of issuing bonds for the purpose of sinking artesian wells in said township, the number and location of said wells and the size thereof, which notice shall be signed by the chairman of the board of supervisors as such.

§ 7. TIME AND PLACE OF ELECTION.] The notice men-

tioned in Section 6 must be posted at least ten days before any election, and every such election must be held in one of the most centrally located school houses in said township and upon Tuesday between the hours of 1 o'clock and 5 o'clock P. M.

§ 8. DUPLICATE OF NOTICE TO BE FILED.] The chairman of the board of supervisors posting said notices shall within five days after posting said notice, file a duplicate thereof with his affidavit endorsed thereon, which shall state the fact of posting five duplicates thereof, the place where the same were posted and the time when, which duplicate notice and together with the affidavit endorsed thereon, shall be forthwith delivered to the register of deeds of the county, with whom an application to and report of the engineer of irrigation is on file.

§ 9. ELECTION—HOW CONDUCTED.] The election mentioned in said notice shall be conducted, and the vote canvassed in the same manner as township elections are now conducted. The ballots used at said election shall be printed or written in substantially the following form: "Shall the township of..... issue bonds for the sinking of artesian wells at the places mentioned in the notice of this election. Yes. Shall the township of..... issue bonds for the sinking of artesian wells at the places mentioned in the notice of this election. No." If at said election a majority of the legal votes cast shall be in favor of issuing said bonds, the town clerk shall, within three days after the canvass of said vote, deposit in the office of register of deeds of the county in which said township is located, a duplicate of the canvass of the votes of said township relating to the bonding for artesian wells.

§ 10. PAPERS TO BE RECORDED.] All papers filed with the register of deeds pursuant to this act shall be by said register forthwith recorded in the office of register of deeds and the instrument shall remain on file in the office of register of deeds where the record is made.

§ 11. BOARD OF SUPERVISORS SHALL ADVERTISE FOR BIDS.] The board of supervisors of the township in which any vote shall have been had upon the question of bonding for the sinking of artesian wells shall, within three days after the canvass of the vote upon this question, provided a majority of the votes cast be in favor of the bonding for the sinking of artesian wells, advertise in at least one public newspaper published in the county wherein the township is located for two successive issues asking that bids be made for the sinking and casing of said wells or any one thereof. The notice so printed must give size of wells, kind of piping used, the valves and appliances necessary to control the flow of water from said wells and the date, as nearly as may be, when said wells shall

be completed, and the fact that no money will be paid nor liability incurred by the township until the said well or wells shall be completed and accepted by the state engineer of irrigation as hereinafter provided.

§ 12. BIDS TO BE FILED—WHEN.] All bids mentioned in Section 11 shall be filed with the township supervisors within twenty days after the publication of the notice for bids mentioned in Section 11.

§ 13. WORK TO BEGIN—WHEN.] Every person whose bid for sinking artesian wells under the provisions of this act has been accepted shall, within twenty days after the acceptance of his bid, commence the actual work of sinking said wells and continue the same with all convenient speed and complete the wells as soon as the work can well be done and within the limit in this act prescribed.

§ 14. ACCEPTANCE OF WELL BY STATE ENGINEER OF IRRIGATION.] It shall be the duty of the state engineer of irrigation when notified of the completion of any well sunk under the provisions of this act, to immediately examine the same, and if said wells shall be well constructed and cased with the class of piping mentioned in his bid, and shall have substantially the same flow as other wells in that locality, it shall be the duty of the state engineer of irrigation to accept the same, and forthwith file his acceptance of said well or wells, duly acknowledged and attested by the supervisors of the township in which said well or wells are located, and whenever the wells mentioned in this section shall comply with the provisions of this act, it shall be the duty of the supervisors aforesaid to attest the acceptance of the state engineer of irrigation.

§ 15. WATER TO BE CONVEYED WHERE.] It is hereby made the duty of the board of supervisors of every township in which any such wells shall be located to pipe or convey the water from such well to the highest point of land upon the tract to be irrigated from said well as hereinafter provided, and for that purpose shall cause said piping or conveyance of the water to be done in the manner hereinafter provided.

§ 16. DEED OF LAND TO BE OBTAINED.] Before any contract for the sinking of an artesian well shall be let the person upon whose land the said well is located, shall make to the township in which the well is located a good and sufficient deed of one acre of land upon which said well is located, with right of way from the highway to the said well, and the right to lay pipes or make ditches from said well across the land on which said well is located to the lands of the adjoining owners.

§ 17. CIVIL TOWNSHIPS TO RECEIVE AND HOLD REAL ESTATE.] All civil townships in the State of South Dakota are hereby authorized and empowered to receive and hold grants

of real estate for the purposes mentioned in Section 16 of this act.

§ 18. APPLICATION FOR USE OF WATER.] At any time after the contract for sinking of any well has been completed, any person owning land in said township desiring the use of any water from said well for the purpose of irrigation, shall make to the board of supervisors of the township an application in writing, describing the tract of land to be irrigated and the number of acres to which water is to be applied, and that the applicant is willing to pay for the same in acre feet.

§ 19. BOARD OF SUPERVISORS TO CONTRACT FOR USE OF WATER.] Within ten days after the filing of said application for water, the board of supervisors shall enter into a contract to furnish water to the said owner for the land described at a price per acre foot of water, to be fixed in said contract, which shall in no event exceed a pro rata amount of eight per cent of the bonds issued for the purpose of sinking said wells and piping or conveying the water as herein provided.

§ 20. APPLICATION AND CONTRACT TO BE FILED WITH REGISTER OF DEEDS.] The board of supervisors of the township shall file or cause to be filed for record in the office of the register of deeds of the county in which said township is located, the said application and a duplicate of the water contract, which shall be recorded by the register of deeds, and from that time the said rights given under the said contract shall run with the title of the land, and shall not be severable therefrom until default is made in the payment of water rent, which default must have continued thirty days before the right to the water mentioned in said contract shall be severable from the land.

§ 21. LIEN UPON LAND FOR WATER RENT.] Every township having constructed wells under this act shall have a lien upon the lands mentioned in said water contract, for the amount of the water rent remaining unpaid under the said contract and may foreclose the said lien by action upon the lands described in said contract whenever said water rents shall remain unpaid for thirty days after the time mentioned in the contract for payment.

§ 22. WATER RENT—HOW COLLECTED—DISPOSITION OF.] It shall be the duty of every township treasurer to collect the water rents mentioned in this act, and immediately pay the same to the county treasurer of the county, whose duty it is to set the same aside as a fund out of which he is directed to pay the interest upon the water bonds of the township as said interest shall become due.

§ 23. TOWNSHIP BOARD MAY LEVY TAX.] In case there shall not have been sufficient money paid into the county treasury for water rents on the first day of April in any year to pay the amount of interest on the water bonds for the year, then it

shall be the duty of the civil officers of said township to levy and collect a sufficient tax to pay the interest upon the said bonds, and it is hereby made the duty of the township board to levy upon the taxable property of the civil township a sufficient tax to pay the interest upon the water bonds, whenever there shall be an insufficiency of funds from water rent to pay the interest as in this section provided, and after five years a sufficient tax shall be levied upon the taxable property of the civil township to provide a sinking fund for the payment of the principal of the bonds when due, but in no event shall such tax exceed three per cent upon the taxable property of the township in any one year.

§ 24. REDEMPTION OF BONDS.] When said bonds become redeemable, and the civil township has money in the sinking fund, or other money which may be properly applied to that purpose because not otherwise appropriated, the township treasurer shall apply all such money to the redemption of the bonds. Notice of such redemption shall be given by the financial agency at which the bonds are made payable, which may be anywhere in the United States, by one publication in a paper selected by it, and if payable at the township and by the treasurer, notice may be given by one publication in a newspaper of general circulation in and published within the county, and in either case the interest shall cease at the end of two weeks from the date of such publication. When redeemed the bonds shall be cancelled by the treasurer or clerk, or in their absence or failure, then any supervisor, who shall certify the same across their face and enter it in the clerk's record book of proceedings, describing the bonds severally.

§ 25. BOND OF TOWNSHIP TREASURER MAY BE INCREASED.] Whenever the amount of money to come into or through the hands of the township treasurer as proceeds from the sale of bonds, as under the provisions of this act with all other township funds in his hands exceed the amount of the bond now required to be given by the township treasurer, the board of supervisors shall require an additional bond of double the amount of money so about to come into his hands.

§ 26. A REGISTRY OF EACH BOND TO BE KEPT.] Before the bonds are attested by the county auditor or the county clerk he shall carefully examine the returns of the election on file in his office, and shall satisfy himself by the evidence that may be furnished by the officers of the civil townships that such election and return are in accordance with the provisions of the notices for the election and of this law; and if satisfied that said bonds have been so lawfully voted, he shall, in a book kept for that purpose, preserve a registry of each bond, showing in separate columns and entries the name of the civil townships issuing the bond, the number of the bond, the denomina-

tion thereof, the date of issue, and other facts, and upon each bond shall endorse the following certificate:

"I hereby certify that the within bonds for..... hundred dollars of.....civil township..... county, State of South Dakota, is issued in accordance with law, and by authority of a majority of the legal voters of said township, voting at an election duly held..... 189..... for that purpose and is duly registered in this office."

The blanks shall be filled according to the fact, and the certificate officially signed by the county auditor or clerk and attested by a seal of the county; and in addition thereto the county auditor or clerk shall officially attest the execution of the bond as in this act provided. The validity or obligation of any such water bond, so registered and certified, shall not be questioned in any court or tribunal, but every such bond shall be and remain valid and binding.

§ 27. BONDS TO BE ISSUED BY BOARD OF SUPERVISORS.] The bonds mentioned in this act shall be issued by the board of supervisors of any township declaring in favor of issuing said bonds. The bonds shall be in denominations of not less than one hundred nor more than one thousand dollars; shall be numbered from one upwards consecutively; shall bear the date of their issue; shall be made payable to the purchaser or bearer; shall be payable ten years from date, and redeemable at the option of the township after five (5) years, and shall bear interest at a rate not exceeding eight per cent per annum, payable annually with interest coupons attached, and principal and interest shall be made payable at such place as may be designated by the board of township supervisors. The bonds and each coupon shall be signed by the chairman of the board of supervisors of the township, and shall be attested by the county auditor under his official seal. Said bonds shall be printed, engraved or lithographed on good bond paper and a duly authenticated copy of Sections 6, 7, 8, 9 and 11 of this act shall be printed on the back of each bond. If the coupon of any such bond or the bond proper shall not be paid when due by the civil township and for a period of six months thereafter, the holder thereof may present the same to the county clerk or county auditor of the proper county, with affidavit of some person to the fact of such non-payment after presentation, and the county clerk and county auditor shall make a record of the fact and the amount so due, and if the proper tax be not already levied by the township board of the civil township, the county clerk or county auditor shall levy and extend upon the tax lists against all the taxable property of the township a rate sufficient to produce an amount necessary to meet the said payment, which said tax shall be collected as other township

taxes are collected. From the first money which comes into his hands from this tax, the county treasurer shall pay the amount due upon the coupons; then the bonds so defaulted, and the coupons and bonds so paid and received by the county treasurer shall be delivered to the treasurer of the civil township and receipted for the same as money. Such tax shall be levied from year to year by the county clerk or county auditor, and extended upon the tax lists and collected and used by the treasurer in redemption of coupons and bonds until they are fully redeemed and paid, unless they are meanwhile withdrawn from such protest by the holder. Such tax shall not exceed two per cent in any one year, and shall be in addition to all other taxes authorized.

§ 28. BONDS TO BE A LIEN UPON CIVIL TOWNSHIP.] Bonds issued under this act shall be a lien upon the civil township issuing them, and if other provisions of law fail or seriously delay the payment of the interest or principal by the neglect or refusal of officers to perform their duty, the circuit court for the county may upon the application of the holder of such bonds or their coupons, in payment of which default has been made and notice to the civil township, cause such taxes to be levied as will meet the obligations, and when collected to apply them to the payment of such coupons and bonds.

§ 29. PROCESS AGAINST CIVIL TOWNSHIP SHALL BE SERVED HOW.] In every action or proceeding against the civil township, or in which the civil township is a party in any manner, it shall be sufficient to serve all process, orders and notices or other writs or papers upon the chairman of the township board, or if he cannot be conveniently found, upon either of the other officers of the civil township. When any officer is so served or notified he must promptly inform the other officers of the civil township, and the township board of the civil township shall give direction concerning the action or proceeding.

§ 30. WELLS FOR FILLING ARTIFICIAL RESERVOIRS, ETC.] If at any time the petitioners for artesian wells as herein provided shall state in their petition to the state engineer of irrigation that they desire said wells or any of them sunk for the purpose of filling lake beds, streams or artificial reservoirs in said township for public purposes, said wells shall be sunk and all the provisions of this act in reference to obtaining the same shall apply to such wells, excepting that the constant flowing of said wells shall be allowed, unless in the judgment of the state engineer the flow of other artesian wells used for domestic and irrigation purposes are diminished thereby, and it is hereby made the duty of the township board of supervisors, by proper dams and other appliances to retain as far as possible the waters from said wells within the township providing for

said wells. Whenever it shall be necessary to flood said lands it shall be the duty of the township through its supervisors to purchase the same if such lands can be purchased for the price of other like lands in that locality, and if the lands cannot be so procured, then the township shall pay to the person or persons or corporation owning said lands about to be flooded, such actual damages as may be thereby sustained, to be ascertained under the provisions of Chapter 103, Laws of 1890; all of said Chapter 103 of the laws of 1890 is hereby retained in full force, excepting where the same is in conflict with this act.

§ 31. PREVIOUS PROVISIONS TO APPLY.] Whenever it shall appear necessary from the report of the state engineer locating said wells to pipe, convey or dam the water flowing from said artesian wells, the contract for the same shall be let in the same manner as is provided for sinking of artesian wells, and the money for such work shall be raised by bonding said township, and shall be voted upon as herein provided in reference to artesian wells, and all the provisions of this act in reference to bonding civil townships for the sinking of said wells and the payment of the bonds issued therefor, shall apply to the work mentioned in this section.

§ 32. NUMBER OF WELLS MAY EXCEED SIXTEEN.] Whenever the application to the state engineer for artesian wells shall call for a well smaller than four and one-half inches in diameter, authority is hereby given for the location and sinking in said township of more than sixteen artesian wells.

§ 33. SECOND PETITION MAY BE MADE.] At any time after the completion of the wells mentioned in the first application, and after the complete utilization of all the waters flowing from said wells in the manner in this act provided, twenty or more residents of said township may apply to the state engineer for the location of other artesian wells in said township and the provisions of this act in reference to the first petition shall in all things apply to the proceedings with reference to second petition.

§ 34. RULES FOR USE OF WATER.] The state engineer shall prescribe rules and regulations for the distribution and use of water from public wells not in conflict with law, subject to the approval of the township board of supervisors.

§ 35. RECORD TO BE KEPT BY THE PERSON SINKING WELL.] It is hereby made the duty of the township board to embody in the contract for the sinking of said public artesian wells a provision that the persons sinking said wells shall make a record of the depth of each well and the formations entered or passed through in the construction of the same, and such provision is hereby made the essence of the contract, and a violation thereof shall be construed to be a violation of the contract.

§ 36. WATERS TO BE APPLIED HOW.] The waters derived from artesian wells pursuant to this act shall be applied for the following purposes and in the following order:

First. For domestic purposes, which is hereby defined to mean for household use for the supply of domestic animals kept with and for the use of the household and farm, and the watering and sustaining of trees, grass, flowers and shrubbery about the house of the consumer in an area not exceeding one-half acre of land.

Second. All of the waters from said wells not used for domestic purposes, shall be applied to the purposes of irrigation. *Provided*, That whenever the use of said wells for manufacturing purposes will in no manner obstruct or materially diminish the waters for irrigation purposes, the board of township supervisors are authorized to lease the power for such manufacturing purposes as in their judgment will best subserve the interest of the people; said license shall not be for a period exceeding ten years. *Provided, further*, That the lessee, his heirs or assigns, may at the end of ten years renew said lease by paying the rental at which said power shall be appraised at the end of that period, and the moneys arising from the rental of said power shall be paid into the county treasury and be used as a fund out of which shall be paid the interest and principal of said water bonds.

§ 37. PUBLIC WATERING PLACE PROVIDED.] It shall be the duty of the state Engineer at the expense of the township, to conduct the water from each well to a point on the public highway nearest thereto, and provide for the reception of said water, a tank, not less than ten feet in length, three feet in width, and two feet in depth, in which sufficient water shall be kept to supply the general public for the purpose of watering stock and other domestic uses.

§ 38. BIDS FOR PIPING AND CONVEYING WATER TO BE ASKED.] The board of supervisors of every township, shall advertise for bids for piping and conveying water, and shall let the contracts therefor in the same manner as is provided in this act for letting contracts in reference to the sinking of artesian wells.

§ 39. CHAIRMAN OF BOARD OF SUPERVISORS TO SUPERINTEND WELLS.] The wells mentioned in this act shall be under the immediate charge and supervision of the chairman of the board of supervisors of the township, and he shall receive as his compensation the sum of \$50.00 per year, which shall be in full for all services in connection with said wells and the distribution of said water, and the making of all contracts.

§ 40. WELLS TO BE ENCLOSED.] Each of the wells constructed under the provisions of this act shall be enclosed by a substantial building at least six feet square and constructed

in a substantial manner, sided with two inch plank or an equivalent and properly roofed and anchored. Said building shall at all times be securely locked.

§ 41. COUNTY SURVEYOR TO LOCATE WELLS—COMPENSATION.] It shall be the duty of the county surveyor to locate the wells in any township in his county in the manner provided in section 2 of this act, whenever requested so to do by the state engineer of irrigation, and when said wells are so located by the county surveyor he must join with the state engineer in signing the report of such location. His compensation shall be three dollars per day and mileage, but the state engineer may, for good cause stated, appoint any other competent surveyor to do the work, and his certificate shall be of equal force with [the] county surveyor's certificate, and his compensation shall be the same as that of county surveyor. *Provided*, such services are paid for by the state engineer of irrigation, without cost to the township, county or state.

§ 42. USE OF WATER FROM PRIVATE WELLS LIMITED.] Any person, association or corporation owning land shall have the right to sink or bore an artesian well or wells on his, their or its lands for the purpose of procuring water for domestic use, for irrigation or for manufacturing purposes; but in wells hereafter constructed no more water shall be appropriated by such person, association or corporation than is needed for said purposes, when such additional use of water interferes with the flow of wells on adjacent lands.

§ 43. LOCATION OF WELLS.] In locating wells in townships which have established and put down wells under the provisions of this act for public use, or by private parties, due regard shall be had for their proper distribution in order that the flow of the wells may be properly equalized and least likely to interfere with each other. Should any well, in such township public or private, be located so near any well already completed or in process of completion as to be likely to interfere with the same, any person may complain in writing to the state engineer, who shall, without delay, proceed to examine the locality and determine from its topography and the proximity of the wells, whether in his judgment, the wells as located would unduly interfere with the one already completed or in course of completion. If in his judgment there will be no material interference, the location will not be changed, but if in his opinion the well as located will materially interfere with the one completed or in course of completion, he shall change the location of said well to some more suitable locality. *Provided*, that when permanent buildings have been located on any farm, prior to the sinking of any artesian well on any adjoining farm, this act shall not be construed as prohibiting the agent or proprietor of said farm from sinking an arte-

sian well at or near said building without reference to the proximity of any other artesian well. The state engineer shall, within five days after said examination, make a written statement of his decision and file the same or a copy thereof in the office of the clerk of the circuit court of the county wherein the said wells are located. Any person aggrieved by the decision of the state engineer may, within ten days after the filing of his decision in the office of the clerk of the circuit court, appeal from the same to the circuit court, and upon such appeal the question shall be tried *denovo*.

§ 44. FLOW AND PRESSURE OF WELLS TO BE DETERMINED.] The state engineer is hereby authorized and it is made his duty to measure or cause to be measured the flow and pressure of all artesian wells established and put down under the provisions of this act, public and private, at such times as he may deem proper, for the purpose of determining the increase or diminuation of the flow or pressure of said well, and is hereby authorized to enter upon any grounds for the purposes aforesaid, and the owner or owners of such well or wells, are hereby directed to furnish the necessary material to construct a suitable wier to measure the flow and all reasonable conveniences shall be afforded for this purpose.

§ 45. WELLS TO BE CASED.] Every person sinking or boring for an artesian well shall cause to be placed in such well a proper and sufficient casing of strength sufficient and so arranged and placed as to prevent the caving in of such well and to prevent the escape of water therefrom where it is desirable to confine the same, and to provide the necessary valve and appliances to prevent or control the flow of water from such well.

§ 46. WATERS SHALL NOT BE WASTED.] No person controlling an artesian well shall suffer or permit the water thereof to flow to waste, unless, and so far as reasonably necessary, to prevent the obstruction thereof, or to flow or to be taken therefrom save for beneficial uses. *Provided*, This shall not be so construed as to prevent the reasonable use of said water for the necessary irrigation of trees standing along or upon any street, road or highway or for ornamental ponds or fountains or the propagation of fish.

§ 47. INSPECTION OF WELLS.] Any township supervisor, the county commissioners, road overseers and aldermen or other city officers within their respective townships, counties, cities and towns, upon complaint of any person that the proprietor of any artesian well, or person controlling the same, is wont to suffer the waters thereof to unreasonably run to waste therefrom or have in any respect violated this act, may at any reasonable hour of the day or night enter upon any premises where such well is situated for inspecting the same

and for ascertaining whether there is sufficient cause for such complaint, and in order to institute or cause to be instituted criminal prosecutions, for any violations of this act, and every person sinking or boring for an artesian well upon his own land or suffering others to do so shall be deemed in law to expressly license such entry of the officers aforementioned, or any of them, for the purposes of such inspection and examination.

§ 48. CRIMINAL ACTION MAY BE TAKEN.] If any person, company or corporation, being the proprietor of or controlling any artesian well, shall suffer the same to flow without causing it to be furnished with the necessary valves or appliances for arresting and preventing the flow of water therefrom, as provided in Section 45 of this act, or who shall knowingly permit the water thereof to flow to waste unnecessarily and to the injury of others, or being in possession of or controlling the premises where any artesian well is situated shall wilfully prevent any officer entitled by this act to visit and inspect the same, or to measure the flow and pressure thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months, or both such fine and imprisonment, in the discretion of the court wherein conviction is had.

§ 49. TOWNSHIP AND VILLAGE TO UNITE IN BONDING TO SECURE ARTESIAN WELL.] Whenever any township in which an incorporated village is or shall be located, is desirous of sinking an artesian well for domestic and general public purposes under the provisions of this act, it shall be lawful for the incorporated village to join with the township in voting upon the question of bonding, the electors of the entire township, including the village, shall vote upon the question of bonding in the same manner as if there was no separate incorporated village, and the bonds so issued shall be a lien upon all taxable property of the township and village alike.

§ 50. REPAIRS OF WELLS AND ALL APPURTENANCES MADE AT EXPENSE OF TOWNSHIP.] The township board of supervisors shall keep all wells, ditches, dams, pipes and appurtenances in good repair at the expense of the township, and shall pay for the same out of the township funds not otherwise appropriated.

§ 51. PROVISION IN CASE OF DISABILITY OF STATE ENGINEER.] Whenever for any reason the acts herein designated to be performed by the state engineer of irrigation cannot be performed by him, or if said office, for any reason, becomes vacant, such acts shall be performed by the county surveyor of the county in which the same act or duty is to be performed.

§ 52. EMERGENCY.] An emergency is hereby declared

to exist in reference to the passage of this law, and it shall, for that reason, be in force from and after its passage and approval.

Approved March 9, 1891.

LEGISLATIVE JOURNALS.

CHAPTER 81.

[S. B. 280.]

A JOINT RESOLUTION TO PROVIDE FOR THE PRINTING AND DISTRIBUTION OF HOUSE AND SENATE JOURNALS.

A JOINT RESOLUTION to Provide for the Printing and Distribution of the Permanent Journal of the Senate and of the House of Representatives of the Second Session of the Legislature of the State of South Dakota.

Be it Resolved by the Senate, the House of Representatives Concurring Therein:

That there be printed 500 copies of the permanent Senate Journal by the parties who now have the printing of the senate bills and journals, at not to exceed the contract price for such journals; *Provided*, That the price for composition for the Senate Permanent Journal shall be the same as the price for composition of the Daily House Journal.

That there be printed 500 copies of the permanent House Journal by the parties who now have the printing of the house bills and journals at not to exceed the contract price for such journal.

That the chief clerk of the house and the secretary of the senate shall without unnecessary delay, after the close of the session of the legislature, deliver to the secretary of state, for the use of the printers, correct copies of the House and Senate Journals respectively, with proper and correct indexes to the same.

That upon receipt of such copies by the secretary of state, he shall without unnecessary delay cause such journals to be printed by the parties hereinbefore mentioned, and bound in a suitable manner, and shall distribute one copy of each journal without cost to the following persons:

First. All state officers.

Second. Judges of the supreme court.

Third. Judges of the circuit court.

Fourth. All members of the legislature.

Fifth. All officers, clerks and employes of the legislature.

Sixth. The librarian of congress and the librarian of each state library in the United States.

That 150 copies of each journal shall be placed in the state library for the use of the legislature when in session, and that the surplus, if any, may be sold by the secretary of state at a fair price, in no case for less than cost, and ten per cent added, and the proceeds of such sales be turned over to the state treasurer and applied to the general fund.

That the state auditor shall draw his warrant upon the state treasurer, in favor of the secretary of state for all sums actually needed by the said secretary to cover all postage and expense incurred in distributing such journals under the provisions of this resolution.

LIENS.

CHAPTER 82.

[H. B. 216.]

PROVIDING FOR THE PROTECTION OF STOCK BREEDERS.

Be it Enacted by the Legislature of the State of South Dakota:

AN ACT to Amend Section 3 of Chapter 125 of the Session Laws of the Legislature of the State of South Dakota for the year 1890.

§ 1. AMENDMENT.] That Section 3 of Chapter 125 of the Session Laws of the Legislature of South Dakota for the year 1890, be and the same is hereby amended to read as follows:

‘Section 3: The owner or owners of any sire receiving such certificate by complying with Section one (1) of this act shall obtain and have a lien upon the get of any such sire for a period of eighteen months from the date of birth of get and said lien shall have priority over all other liens and incumbrances upon the get of any such sire, created subsequent to the passage and approval of this act; *Provided*, Said owner or owners shall within twelve months of the time of rendition of such service by said certified sire file for record a statement of account verified by affidavits or affirmation with the recorder of the county wherein the service has been rendered, of the amount due such owner or owners for said service, together with a description of the female served.”

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1891.

MORTGAGES.

CHAPTER 83.

[S. B. 206.]

PROVIDING FOR THE SATISFACTION AND CANCELLATION OF CHATTEL MORTGAGES.

AN ACT to Provide for the Satisfaction and Cancellation of Chattel Mortgages Filed in the Office of Register of Deeds of Each of the Several Counties of this State.

Be it Enacted by the Legislature of the State of South Dakota.

§ 1. DUTY OF MORTGAGEE.] Whenever any chattel mortgage has been satisfied, the mortgagee, or his assignee or agent, must within thirty days thereafter file in the office of the register of deeds of the county in which said mortgage is filed, a release and satisfaction thereof in full.

§ 2. PENALTY.] If the mortgagee or his assignee or agent shall fail to comply with the requirements of Section 1,

of this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than fifty dollars.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] Whereas an emergency exists, this act shall take effect from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 84. *142 ms 854*

[S. B. 268.]

SALE OF LANDS UNDER FORECLOSURE.

AN ACT to Amend Section 602 of the Code of Civil Procedure, Relating to the Judicial Sale of Lands.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] The sale must be at public auction between the hours of nine o'clock in the forenoon and the setting of the sun on that day, in the county in which the premises to be sold, or some part thereof, are situated, and must be made by the sheriff or his deputy, of the county to the highest bidder.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 85.

[S. B. 67.]

LEGAL TENDER FOR PUBLIC AND PRIVATE DEBTS.

AN ACT to Prohibit in a Mortgage or Other Evidence of Indebtedness any Provision for the Payment of such Debt in any Certain Kind of Money.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PAYMENT OF DEBT IN ANY CERTAIN KIND OF MONEY PROHIBITED.] It shall be unlawful for any person in the State of South Dakota, whether it be the mortgagee or the owner of any kind of evidence of indebtedness, or his agent, to require that the interest or principal or any part therein shall be paid in any certain kind of lawful money, such as gold, silver, paper or any specific kind of money, and ~~that~~ the debt shall be deemed satisfied and fully paid when the specified amount stated in the debt, with legal interest, is tendered in any money that is a full legal tender for public or private debts.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

MUNICIPAL CORPORATIONS.

CHAPTER 86.

[H. B. 285.]

PROVIDING MANNER OF AMENDING CHARTERS OF MUNICIPAL CORPORATIONS.

AN ACT Authorizing Municipal Corporations Existing Under Special Charters to Amend their Charters by a Vote of the People.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AUTHORITY TO ALTER OR AMEND CHARTER.] That any municipal corporation, city, town, or village now existing under a special charter is hereby authorized and empowered to

alter or amend its charter upon submitting such proposed amendment or amendments to a vote of the legal electors within such municipal corporation, city, town or village in accordance with the provisions and requirements hereinafter enumerated in this act, always provided that such proposed amendment or amendments shall not be contrary to or in violation of any existing provisions of the laws of the State of South Dakota.

§ 2. WHEN AND BY WHOM ELECTIONS SHALL BE CALLED.] That upon a petition duly signed by one-third of the legal electors of any municipal corporation, city, town or village now existing under a special charter, addressed to the city, town or village council, or board of trustees thereof, such city, town or village council, or board of trustees, shall at its next regular or special meeting cause to be prepared and issued a notice of election setting forth in full the proposed amendment or amendments to its charter, which said notice of election shall be published in the official newspaper or newspapers of such municipal corporation, city, town or village, and by posting printed or written notices thereof in five public places within each ward or voting precinct and said notice of election shall be published at least once a week for thirty days after the date of the first publication. The date of election shall be within one week after the last publication of said notice of election.

§ 3. FORM OF BALLOT.] The form of ballot shall be: (Here insert the proposed amendment.) "For the proposed amendment." "Against the proposed amendment."

§ 4. MAJORITY OF VOTES REQUIRED TO ADOPT AMENDMENT.] That if upon such submission to a vote of any proposed amendment or amendments a majority of the votes cast shall be: "For the proposed amendment," then the same shall be considered as adopted and shall become a part of the charter, but if a majority of the votes cast shall be "Against the proposed amendment" then the same shall be void and of no effect.

§ 5. MANNER OF CONDUCTING ELECTION.] The manner and form for conducting the elections held under the provisions of this act, counting the votes, making returns thereof and declaring the result, shall be the same as prescribed under the provisions of the charter of such municipal corporation, city, town or village.

§ 6. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 6, 1891.

CHAPTER 87.

[H. B. 185.]

PROVIDING FOR PUBLICATIONS REQUIRED BY LAW WHERE
NO NEWSPAPER IS PUBLISHED IN THE ENGLISH
LANGUAGE.

AN ACT to Provide for Publications Required by Law in Incorporated Towns, Villages and Cities Within Which no Newspaper of General Circulation is Printed and Published in the English Language.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PUBLICATION MAY BE MADE OUTSIDE CORPORATE LIMITS.] That in all incorporated towns, villages and cities incorporated under any general laws or special charter where no newspaper of general circulation is printed and published in the English language, any publication which now is or which may hereafter be required by law to be made by such incorporated town, village or city or by or under the authority thereof, or by or under the authority of the board of education thereof, may be made in any newspaper of general circulation published in the county wherein such incorporated town, village or city is situated, and such publication when made as provided by this act, shall have the same validity as if the same were made in a newspaper published within the corporate limits of such incorporated town, village or city.

§ 2. PUBLICATIONS LEGALIZED.] That all publications heretofore made since the first day of January, 1890, which would be valid under the provisions of this act if made hereafter be and are hereby legalized, and the same are hereby declared to be valid for all purposes for which the same would be effectual if such publication were made under the provisions of this act.

Approved March 7, 1891.

CHAPTER 88.

[H. B. 184.]

RELATING TO QUALIFICATION OF CERTAIN OFFICERS.

AN ACT to Amend Section Seven of Article Six of Chapter Thirty-seven of the Session Laws of the First Legislature of the State of South Dakota, entitled "An Act to Provide for the Incorporation of Cities and their Classification According to Population."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section Seven of Article Six of Chapter Thirty-seven of the Session Laws of the first legislature of the State of South Dakota, be, and the same hereby is amended by adding to said section "seven" after the word "corporation," the following; "Provided, That the city attorney and city engineer need not be qualified electors of or residents of the city."

Approved March 7, 1891.

CHAPTER 89.

[H. B. 197.]

PROVIDING TIME FOR COMMENCEMENT OF TERM OF OFFICE.

AN ACT to Amend Section 10, Article 14 of Chapter 37, Session Laws of 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 10, Article 14, Chapter 37, Session Laws of 1890, be and is hereby amended by inserting after the word "in" on the second line of said section the words "May of."

§ 2. EMERGENCY.] Whereas an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 90.

[H. B. 87.]

PROVIDING MANNER OF FILLING POLICE JUSTICE VACANCY.

AN ACT to Amend Section 12, Article 11, of Chapter 37, of the General Laws of 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 12, Article 11 of Chapter 37 of the general laws of 1890, be amended by striking out the words, "Call a special election to."

§ 2. REPEAL.] That all acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] That an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved February 27, 1891.

CHAPTER 91.

[H. B. 189.]

RELATING TO SEWERS.

AN ACT Relating to Sewers and Sewerage.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CITY COUNCIL AUTHORIZED TO ACQUIRE PRIVATE PROPERTY.] The city council of any city of the first class shall have power to acquire by proceedings as provided by law for the taking or damaging of private property for municipal improvements the right to construct and maintain sewer pipes through and upon private property or in or along any stream of water not meandered but running wholly through private property, or to empty or discharge the sewerage of said city, or any part thereof into any stream of water within the limits of said city. *Provided, however.* That sewerage so emptied into any stream of water shall be so disposed of and managed as not to create any foul or noxious odors in the air over or along said stream.

Approved March 7, 1891.

NOTARIES PUBLIC.

CHAPTER 92.

[S. B. 127.]

LEGALIZING THE OFFICIAL ACTS OF NOTARIES PUBLIC.

AN ACT to Legalize the Acts of Notaries Public in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACKNOWLEDGMENTS LEGALIZED.] That all acknowledgments of deeds, mortgages or other instruments in writing and oaths administered by, and affidavits taken before any notary public of the State of South Dakota on and after the 26th day of February, A. D. 1890, be, and the same are hereby legalized; and such acknowledgments and affidavits shall have the same force and effect as if said notaries public had deposited an impression of their notarial seal in the office of the secretary of state and in the office of the clerk of the circuit court of the county in which such notary public resides.

§ 2. ACKNOWLEDGMENTS DECLARED VALID.] That all deeds, mortgages and other instruments in writing acknowledged before any notary public during the period aforesaid who has not deposited an impression of his notarial seal in the office of the secretary of state, and in the office of the clerk of the circuit court of the county in which he resides, which now are or shall hereafter be placed on record, shall be and they are hereby declared to be duly recorded, and shall be notice to all persons the same as though said notary public had deposited as aforesaid an impression of his seal in said office.

§ 3. RECORDS DECLARED VALID.] That all deeds, mortgages and other instruments in writing, the acknowledgments of which have been taken and certified during said period by notaries public who have not deposited an impression of their notarial seal in the offices aforesaid, are hereby declared to be acknowledged and certified, and the records of the same shall be as valid and binding in law and equity as though the notary public before whom they were acknowledged and certified had deposited in said offices an impression of his notarial seal.

§ 4. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, no law is now in force legalizing the acts of notaries public who have not complied with Section 4, Chapter 115, of the Session Laws of A. D. 1890, therefore an emergency exists and this law shall be in force from and after its passage and approval.

Approved February 17, 1891.

OFFICIAL BONDS.

CHAPTER 93.

[S. B. 99.]

RELATING TO BONDS OF STATE OFFICERS.

AN ACT to Amend Section 6 of Chapter 5, of the Political Code, Relating to Bonds of State Officers.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 6 of Chapter 5, of the political code, relating to bonds of state officers be amended so as to read as follows:

Section 6. The bond of the state auditor shall be in the penal sum of ten thousand dollars, of the state treasurer in the penal sum of two hundred and fifty thousand dollars, of the secretary of state in the penal sum of five thousand dollars, of the superintendent of public instruction in the penal sum of two thousand dollars, of the commissioner of school and public lands in the penal sum of twenty thousand dollars, of the state engineer of irrigation in the penal sum of two thousand dollars, of the clerk of the circuit and county courts in the penal sum of one thousand dollars, of the state's attorney in the penal sum of one thousand dollars, of notaries public in the penal sum of five hundred dollars; the bonds of county register of deeds, judges of the county courts, sheriffs, coro-

ners, surveyors, treasurers, all assessors, justices of the peace and constables, whether of the county or any township therein, shall each be in a penal sum to be fixed by the board of county commissioners in each county; but that of the county treasurer shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be by him collected in any year is less than two thousand dollars, and then in double the amount of taxes to be by him collected. *Provided*, that in no case shall the bond of the county treasurer be less than the sum of one thousand dollars; those of justices of the peace shall not be less than the penal sum of three hundred dollars each, and those of constables shall not be in a less penal sum than two hundred dollars each.

§ 2. EMERGENCY.] Whereas, there is now no law requiring certain state officers to give bonds, therefore an emergency exists, and this act shall be in force and take effect from and after its passage and approval.

Approved February 25, 1891.

PROPERTY.

CHAPTER 94.

[H. B. 196.]

TO PROVIDE COMPENSATION FOR PRIVATE PROPERTY TAKEN FOR PUBLIC USE.

AN ACT to Provide for the Assessment by Jury of Just Compensation for Private Property Taken for Public Use or Damaged.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. VALUE ASCERTAINED BY JURY.] In all cases when municipal or other corporations, or individuals, invested with the privilege of taking private property for public use or damaging the same in making, constructing or repairing any work or improvement allowed by law, shall determine to exer

cise such privilege, it shall be the duty of such corporation or individual to file a petition in the circuit court of the county in which the property to be taken or damaged is situated, praying that the just compensation to be made for such property, may be ascertained by a jury.

§ 2. PETITION—WHAT TO CONTAIN.] Such petition shall name the corporation or individual desiring to take or damage private property, as plaintiff, and all persons having interest in or liens upon the property affected by the proceeding as defendants, so far as they shall be known at the time of filing the same. It shall contain a description of the property to be taken or damaged in all cases where any resolution or ordinance, or other proceeding of any corporation is required by law, before taking private property; a copy of such resolution, ordinance or proceedings shall be attached to such petition. The purpose for which the property is to be taken or damaged shall be clearly set forth in the petition. It shall not be necessary to specify the interests or claims of the several defendants in the land or property affected by the proceeding. Said petition shall be verified in the manner provided by law for the verification of complaints in actions in the circuit court, and the affidavit of verification shall contain the further statement that the proceeding is in good faith for the purposes specified in the petition.

§ 3. NOTICE OF PENDING OF PROCEEDINGS TO BE FILED.] At any time after the filing of the petition, the plaintiff may file for record in the office of the register of deeds of the county in which the petition is filed, a notice of the pending of the proceeding, containing the names of the parties, plaintiff and defendant, a statement of the purpose of the proceeding, and a description of the property through or over which the proposed improvement is to be constructed, which notice shall be recorded and indexed in the same manner as provided by law, for the recording and indexing of notices of the pending of actions in the circuit court, and from the date of the filing thereof shall be notices to all subsequent purchasers or incumbrancers of the property therein described.

§ 4. AMENDMENTS MAY BE FILED.] If any persons who are proper parties defendant to such proceeding, or any property affected thereby, shall have been omitted from said petition or notice, the plaintiff may file amendments to the same, which amendments, from the filing thereof, shall have the same effect as though contained in said petition and notice.

§ 5. PLAINTIFF TO ISSUE SUMMONS.] At any time after the filing of the petition the plaintiff may issue a summons to the defendants, which shall be entitled in the action or proceeding, and state the time and place of filing the petition, the nature of the proceeding, and contain a notice to the effect that if

the defendants do not appear in said proceeding within twenty days from the service thereof, exclusive of the day of service the plaintiff will apply to the court for an order to impanel a jury and ascertain the just compensation for the property proposed to be taken or damaged in such proceeding.

§ 6. PUBLICATION OF SUMMONS.] If there are unknown owners or persons interested in the property to be taken or damaged, or if any of the defendants are not residents of the state, the plaintiff may apply to the court upon affidavit setting forth the nature of the proceeding and the facts in relation to such unknown persons or non-resident defendants, for an order of publication of such summons, whereupon the court shall grant such order. The summons as published shall have annexed thereto a notice that if the defendants, as to whom publication has been ordered, do not appear in said proceeding within thirty days from the first publication thereof the plaintiff will make application to the court for the order mentioned in the body of the summons. Such summons shall be published for thirty days, at least once in each week in some newspaper published and of general circulation in the county where the proceeding is had, and each publication of the same shall show at the top thereof the date of the first publication; except as modified by this section the proceeding for publication of the summons shall in all respects be governed by the provisions of the Code of Civil Procedure relating to publication of summons.

§ 7. JURORS SUMMONED.] If no appearance be made in said proceeding by any of the defendants within the time specified in the summons, the plaintiff upon affidavit of the default may apply to the court for an order directing the clerk of the court to draw and summon eighteen jurors to attend at the court house or place of holding the circuit court of the county at a time to be specified in such order. Said jurors shall be drawn and summoned in the same manner as jurors are drawn and summoned for the regular or special terms of the circuit court. If any of the defendants shall have appeared in such proceeding the plaintiff shall give such defendants three days' notice of the time and place where application will be made to the court for the order to draw and summon the jurors.

§ 8. FORM OF TRIAL.] At the time and place specified in the order mentioned in Section 7, a special term of the court shall be held, at which the proceedings in impaneling a jury, trial, and rendering of the verdict or verdicts, shall be conducted in the same manner as trials of actions in the circuit court, except that every defendant and every person whom the court shall order to be a defendant, whether he shall give any notice of appearance or not, shall have the same rights and privileges upon said trial to challenge jurors, examine and cross-examine witnesses, and participate in said trial by himself or

attorney as a defendant in a civil action who has appeared and answered.

§ 9. NECESSARY PLEADINGS.] No other pleadings shall be necessary in such proceeding, except the petition of the plaintiff and such as may become necessary to enable the court to determine conflicting claims of the defendants to the compensation awarded by the verdict of the jury, or some part thereof.

§ 10. JURY MAY VIEW PREMISES.] Upon the demand of any party to the proceeding, if the court shall deem it necessary, the jury may view the premises under the rules of law for viewing by the jury.

§ 11. DAMAGES ASSESSED SEPARATELY.] If the compensation for all the property taken or damaged is ascertained by the jury upon one trial, they shall ascertain and return in their verdict the compensation to be paid for each distinct lot or parcel of land or property taken or damaged. In all cases of taking or damaging private property by a municipal corporation the jury shall take into consideration the benefits which may accrue to the owner or owners thereof as the result of the proposed improvement.

§ 12. ISSUE TO BE TRIED.] The only issue or question that shall be tried by the jury upon the petition shall be the amount of compensation to be paid for property taken or damaged, but in case there shall be adverse claimants for such compensation for any part of such property, the court may require such adverse claimants to interplead, so as to fully determine the rights and interests in such compensation.

§ 13. VERDICT TO BE RECORDED.] Upon the return of the verdict the court shall order the same to be recorded, and shall enter such judgment thereon as the nature of the case may require, and that the plaintiff shall pay to the persons entitled thereto the amount of such compensation as shall be ascertained by said verdict, or deposit the same as the court may direct.

§ 14. PROCEEDINGS CONTINUED.] As to all defendants not served before said trial said proceedings shall be continued as the court may direct for the purpose of serving the summons on such defendants.

§ 15. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

PUBLIC BUILDINGS.

CHAPTER 95.

[S. B. 129.]

RELATING TO PURCHASE OF LANDS FOR PUBLIC BUILDING PURPOSES.

AN ACT Consenting to the Purchase of Land by the United States for Public Building Purposes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CONSENT OF STATE.] That the consent of the State of South Dakota be, and the same is hereby given to the purchase, by the government of the United States, or under the authority of the same, of any tract, piece or parcel of land, from any individual, individuals or bodies, political or corporate, within the boundaries or limits of the state, for the purpose of erecting thereon any and all needful public buildings of whatever kind or character; and all deeds, conveyances, or like papers for the same, shall be recorded, as in other cases, upon the land records of the county in which the land so conveyed may lie; and in like manner may be recorded a sufficient description, by metes and bounds, courses and distances, of any tract or tracts, or legal division of any public lands belonging to the United States, which may be set apart by the general government for any or either of the purposes above mentioned, by an order, patent, or other official document or papers describing such land; the consent herein and hereby given being in accordance with the Seventeenth Clause of the Eighth Section of the First Article of the Constitution of the United States, and with the acts of congress in such cases made and provided.

§ 2. EXEMPTION FROM TAXATION.] The lots, parcels, or tracts of lands so selected together with the tenements and appurtenances for the purposes before mentioned shall be held exempt from taxation by the State of South Dakota so long as the same shall remain the property of the United States.

§ 3. EMERGENCY.] Whereas, there is no law now in force giving consent to the purchase of land by the United States, therefore an emergency exists, and this law shall take effect and be in force from and after its passage and approval.

Approved February 18, 1891.

CHAPTER 96.

[S. B. 128.]

CEDING JURISDICTION TO THE UNITED STATES.

AN ACT Ceding Jurisdiction to the United States.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. JURISDICTION CEDED—SITES—HOW SELECTED.] That jurisdiction is hereby ceded to the United States over so much land as may be necessary and appurtenant to any site or sites for the erection, construction and maintenance of any and all needful United States government buildings within this state, not to exceed ten (10) acres in each site so selected, the same to be selected by an authorized agent of the United States, and the selection to be approved by the governor.

§ 2. MAP TO BE FILED.] That upon such selection a map of the territory so selected, definitely showing the boundaries thereof, with the approval of the governor, required in Section 1 of this act endorsed thereon, shall be filed in the office of the secretary of state of the State of South Dakota, and by him recorded.

§ 3. CONDITIONS OF CESSION OF JURISDICTION.] The cession of jurisdiction aforesaid is granted upon the following express conditions and restrictions, to-wit:

The State of South Dakota shall have and hereby does retain a concurrent jurisdiction with the United States in and over the tract or tracts aforesaid, so far as that all civil and such criminal process as may issue under authority of this state against any person or persons charged with crimes committed without the boundary of said tract or tracts, may be served and executed thereon, in the same manner and to the same extent as though the said cession of jurisdiction had not been made.

§ 4. EMERGENCY.] Whereas, there is no law now in force providing for a cession of jurisdiction to the United States, therefore an emergency exists, and this law shall take effect and be in force from and after its passage and approval.

Approved February 18, 1891.

PUBLIC LANDS.

CHAPTER 97.

[H. B. 95.]

ACCEPTING PROCEEDS OF PUBLIC LANDS.

AN ACT to Accept Proceeds of Public Lands.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. GRANTS ACCEPTED.] In conformity to an act of congress approved August thirtieth (30), eighteen hundred [and] ninety (1890), and entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the college for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July second (2), eighteen hundred [and] sixty-two (1862), " the assent of the State of South Dakota is hereby given to all the provisions of said act, and the grants of moneys therein made are accepted by the State of South Dakota for the agricultural college of said state upon the terms and conditions named in said act.

§ 2. EMERGENCY.] As moneys then due cannot be accepted until ninety days after the adjournment of this legislature, therefore an emergency is declared to exist, and this act shall take effect on and after its passage and approval.

Approved March 5, 1891.

PUBLIC OFFICERS.

CHAPTER 98.

[S. B. 143.]

PENALTY FOR FAILURE TO MAKE REPORTS.

AN ACT Fixing the Penalty for Wilfull Neglect of Certain Officers to Make Reports, and Other Duties Required by Law, Prescribing Certain Duties of the Board of County Commissioners and State's Attorney in Relation Thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPORTS—PENALTY FOR FAILURE TO MAKE.] Any county, city, village, civil township, school township or school district officer, who is required by law to make an official report to any other county, city, village, civil township, school township or school district officer, board, tribunal or state officer, and who shall wilfully neglect to make such report, or fail to perform such official duties, shall forfeit and pay to the State of South Dakota a penalty of not less than ten (\$10.00) nor more than fifty (\$50.00) dollars to be recovered from such delinquent officer, or from him and the sureties upon the official bond, in a civil action, to be brought by the state's attorney in any court of record having jurisdiction.

§ 2. PROSECUTIONS HOW MADE.] It shall be the duty of the board of county commissioners and the state's attorney in each county to examine the records of the several county officers, at the end of the officer's term of office, to see that they have been properly kept. Any failure must be remedied or it shall become the duty of the state's attorney to prosecute any such officer for neglect as provided in Section 1. It shall also become the duty of the city council, board of aldermen, village trustees, civil township supervisors, school township or school district board, as the case may be, to examine the records of their several officers in a like manner, or upon complaint by the proper board, the state's attorney shall prosecute as provided in this section relating to county officers.

§ 3. NECESSARY BLANKS AND RECORDS TO BE FURNISHED.] It shall be the duty of the county, city, village, civil township, school township or school district officer to provide, at the ex-

pense of the county, city, village, civil township, school township or school district, such blanks and records as are necessary for making the proper record, and the transaction of any official business connected with his office.

§ 4. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 25, 1891.

PUBLIC PRINTING.

CHAPTER 99.

[S. B. 233.]

PROVIDING FOR THE CLASSIFICATION AND GOVERNMENT OF STATE PRINTING.

AN ACT Governing State Printing and Prescribing Compensation Therefor and the Manner of Awarding Contracts for the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CLASSIFICATION.] The printing for the State of South Dakota is hereby divided into five classes as follows:

First class. Printing and binding all bills for the two houses of the legislature and such resolutions, petitions and memorials as are required to be printed for daily use of the legislative assembly.

Second class. Printing and binding the journals of the two houses of the legislature and such reports, communications and other documents as enter into and make up the journals.

Third class. Printing and binding of reports of state offices, of penal and charitable, educational and other public institutions and other documents ordered by the legislature, together with the executive documents and legislative manual.

Fourth class. Printing and binding general laws and joint resolutions, revised codes and supreme court reports.

Fifth class. Printing of circulars and blanks for state officers and all other printed matter not in pamphlet form and not included in the foregoing classes.

§ 2. COMPENSATION.] That the compensation shall not exceed the following rates for public printing in the State of South Dakota, to-wit: For composition sixty cents per one thousand ems of solid matter. For press work twenty-five cents per hundred impressions of eight pages each for book work, and fifteen cents per hundred impressions for job work. For binding in pamphlet form with printed cover fifteen cents per volume of one hundred pages or less; for each additional one hundred pages or less five cents per volume. For binding in full sheep per volume of one hundred pages or less seventy-five cents per volume; for each additional one hundred pages or less fifteen cents per volume. For binding in paper sides with leather backs and corners fifty cents per volume of one hundred pages or less, for each additional one hundred pages or less fifteen cents per volume. For binding work of the first class fifty cents per hundred complete copies. For book paper used in state printing, twelve cents per pound. For flat paper used and required in the various classes, not to exceed the wholesale price to dealers with twenty-five per cent advance thereon.

§ 3. COMMISSIONER OF PUBLIC PRINTING.] The secretary of state shall be ex-officio commissioner of public printing and he shall have general supervision of all state printing, measuring the work and adjusting all accounts with contractors in compliance with law and regulations adopted by him.

§ 4. DUTIES OF COMMISSIONER OF PUBLIC PRINTING.] It is hereby made the duty of the commissioner of public printing to advertise for bids on or before July 1, of each year, in such papers as he may deem necessary, not exceeding four, for the execution of the several classes of state printing and binding, in separate contracts as specified in section 1 of this act, for the term of one year. He shall provide a schedule for the use of contractors, and adopt such rules and regulations as shall appear best for the state. He shall determine the kind of paper to be used, the size and style of type, the style of binding and the manner of adjusting all such accounts. He shall award separate contracts for each class of printing described herein, but such contract shall not be awarded to contractors outside of the State of South Dakota. Said commissioner may reject any and all bids and re-advertise for proposals, but it is made his duty to accept the lowest responsible bid consistent with good work and subject to the rules and regulations prescribed. He shall also require a bond from each contractor in twice the amount for which the contract is awarded and shall approve all bills found to be correct and in accord-

ance with law, and upon presentation of said accounts so approved to the state auditor, he shall issue his warrant to the person or persons entitled to receive the same.

§ 5. COMMISSIONER TO SUBMIT ESTIMATE.] On the assembling of the legislature at any regular session thereof, or as soon thereafter as possible the commissioner of public printing shall submit to that body an estimate of the probable cost of the printing for the ensuing two years.

§ 6. COMMISSIONER MUST NOT BE A PARTY TO CONTRACT.] The commissioner of public printing is hereby prohibited from becoming a party to any contract for printing for the state directly or indirectly, and any violation of this section shall be deemed a misdemeanor and punishable by a fine of not less than two hundred nor more than five hundred dollars or by imprisonment in the county jail not less than thirty days nor more than one year.

Approved March 9, 1891.

REFEREE.

CHAPTER 100.

[H. B. 171.]

REFERENCE OF CAUSES.

AN ACT to Provide for the Reference of Causes, and to Repeal Chapter 112 of the Session Laws of 1889.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. FILING OF AGREEMENT.] A reference may be ordered upon the agreement of the parties filed with the clerk or entered in the minutes.

1. To try any or all of the issues in an action or proceeding, whether of fact or law, and to report a finding and judgment thereon.

2. To ascertain a fact necessary to enable the court to determine an action or proceeding.

3. In all other cases provided for reference by law.

§ 2. COURT MAY DIRECT REFERENCE.] When the parties do not consent, the court may, upon the application of either, or of its own motion direct a reference in the following cases:

1. When the trial of an issue of fact requires the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein.

2. When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.

3. When it is necessary for the information of the court in a special proceeding.

§ 3. COURT MAY APPOINT REFEREES.] A reference may be ordered to any person or persons, not exceeding three, agreed upon by the parties. If the parties do not agree the court or judge must appoint one or more referees, not exceeding three, who reside within the judicial circuit in which the action or proceeding is triable and against whom there is no legal objection.

§ 4. OATH OF REFEREES.] The referees before proceeding to hear the testimony must be sworn to well and truly try the issues, or to determine the questions referred and to make a just and true report according to their best knowledge and understanding.

§ 5. MANNER OF TRIAL—POWERS OF REFEREE—HOW EXERCISED.] The trial by a referee of an issue of fact, or of an issue of law must be brought upon at least eight days written notice, and conducted in like manner, and the papers to be furnished thereupon are the same, and are furnished in like manner, as where the trial is by the court without a jury. The referee exercises upon such a trial the same power as the court to administer oaths, to grant adjournments, to preserve order and punish the violation thereof. Upon the trial of an issue of fact the referee exercises also the same power as the court to allow amendments to the summons or to the pleadings; to compel the attendance of a witness by attachment; and to punish a witness for a contempt of court, for non-attendance, or refusal to be sworn, or to testify. Upon the trial of an issue of law the referee exercises the same power as the court to permit a party in fault to plead anew or to amend; to direct the action to be divided into two or more actions; to award costs, and otherwise to dispose of any question arising upon the decision of the issue referred to him. The powers conferred by this section are exercised in like manner, and upon like terms, as similar powers are exercised by the court upon a trial.

§ 6. MAJORITY NECESSARY TO ACT.] Where the reference is to more than one referee all must meet together and hear all the allegations and proofs of the parties; but a majority may appoint a time and place for the trial, decide any ques-

tion which arises upon the trial, sign a report or settle a case. Either of them may administer an oath to a witness, and a majority of those present at a time and place appointed for the trial may adjourn the trial to a future day.

§ 7. TIME FOR REPORT.] The referees must make and file with the clerk of the court their report within twenty days after the case is finally submitted. But the time may be extended by the consent of the parties or by order of the court or judge.

§ 8. REPORT TO CONTAIN WHAT.] The report upon the trial of the whole issue must contain a statement of all the exceptions taken during the trial, the rulings of the referee thereon and a sufficient statement of the facts or so much of the evidence as is material to fairly present the question raised by the exceptions. It must also state, separately, the findings of fact and conclusions of law upon the issues raised, which may be excepted to and reviewed in like manner as if made by the court, and such findings and conclusions shall have the same effect as though made by the court upon the trial of questions of fact.

§ 9. JUDGMENT MAY BE ENTERED.] If the report is accepted by the court, judgment may be entered thereon after the expiration of eight days after written notice of the filing of the report served by either party on the adverse attorney.

§ 10. NEW TRIAL—APPEAL TO SUPREME COURT.] A new trial may be had or an appeal taken to the supreme court in like manner as in other cases, and the report of the referee may be incorporated in the bill of exceptions. In case a new trial is granted, or if the report is not accepted, the parties may again refer the cause, or the same shall stand open for trial as though it had not been referred. And the party finally recovering shall be entitled to the costs of the former reference.

§ 11. REFEREES MAY APPOINT STENOGRAPHER.] The referees may appoint a stenographer whose qualifications and duties shall be the same as those required by law in case of the short-hand reporter of the court. The fees and necessary expense of the referees and the compensation of the stenographer shall be fixed by the court, after the filing of the report, and shall be audited and paid by the county or subdivision wherein the court is held which made the reference.

§ 12. REPEAL.] Chapter 112 of the laws of the eighteenth session of the legislative assembly of the Territory of Dakota is hereby repealed.

Approved March 9, 1891.

RESTORATION TO CITIZENSHIP.

CHAPTER 101.

[S. B. 221.]

RELIEVING THE LEGAL DISABILITIES OF CHARLES R. STOCKING.

AN ACT Relating to the Political Disabilities of Charles R. Stocking.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LEGAL DISABILITIES REMOVED.] That the legal disabilities of Charles R. Stocking, of Davison county, of this state, be relieved, and that he be and is hereby restored to full citizenship.

§ 2. REPEAL.] That all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

SCHOOL FUNDS.

CHAPTER 102.

[S. B. 281.]

PROVIDING FOR THE INVESTMENT OF PERMANENT SCHOOL FUNDS.

AN ACT to Provide for the Investment of Permanent School Funds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SCHOOL FUNDS—HOW INVESTED.] The moneys of the permanent school and other educational funds shall be in-

vested only in first mortgages upon good improved farm lands within this State, or in bonds of school corporations within the state, or in bonds of the United States, or bonds of the State of South Dakota.

§ 2. COMMISSIONER TO DETERMINE.] The commissioner of school and public lands shall determine the amounts of said fund which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible, and said commissioner shall, so far as possible, keep all such moneys invested.

§ 3. FUNDS TO BE DIVIDED AMONG ORGANIZED COUNTIES.] All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations shall, for such purposes, be divided among the organized counties of the state in proportion as nearly as provisions of law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principle and interest of all such moneys received by them from date of receipt until returned, because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Such counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively, but no farm loan shall exceed five hundred dollars to any one person, nor shall it exceed one-half the valuation of the land assessed for taxation, and the rate of interest shall not be less than six per centum per annum, and shall be payable semi-annually on the first day of January and July. *Provided*, That whenever there are moneys of said funds in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

§ 4. COUNTY TO REPORT.] Each county shall, semi-annually, on the first day of January and July, render an account of the condition of the funds entrusted to it to the auditor of state and to the commissioner of school and public lands, and at the same time pay to or account to the state treasurer for the interest due on all funds entrusted to it. *Provided*, That no county shall be exempt from the obligation to make semi-annual payments to the state treasurer of interest at the rate provided by this act.

§ 5. BOARD OF COMMISSIONERS TO PROVIDE FOR INVESTMENT AND COLLECTION.] The board of commissioners of school and public lands shall provide for the safe investment of the permanent school and other educational funds and for the

prompt collection of interest and income thereof, and to carry out the objects and provisions of this act.

§ 6. EMERGENCY.] An emergency existing this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

SCHOOL LANDS.

CHAPTER 103.

[S. B. 102.]

REGARDING THE DISPOSAL OF SCHOOL AND PUBLIC LANDS.

AN ACT to Amend Chapter 136 of the Session Laws of 1890, Entitled an Act Regulating the Disposal of the Common School and other Lands of the State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COMMISSIONER OF SCHOOL AND PUBLIC LANDS TO PROCURE SEAL.] That Section two (2) of Chapter 136 of the Session Laws of 1890, be amended by adding after the word "lands" in the second line of said section, the words "shall procure a seal for the use of his office, and to be known and designated as the seal of the commissioner of school and public lands, and."

§ 2. TO PROVIDE FOR EXPENSE OF PLATTING.] That Section 14 of said Chapter 136 be amended by adding after the word "subdivision" in the 13th line of said section the words "and platting."

§ 3. SEAL OF COMMISSIONER OF SCHOOL AND PUBLIC LANDS TO BE USED.] That Section 19 of said Chapter 136 be amended by striking out of lines 19 and 20 the words "under the great seal of the state" and insert after the word

"commissioner" in the 20th line of said section the words "under the seal of his office."

§ 4. END OF FISCAL YEAR DETERMINED.] That Section 23 of said Chapter 136 be amended by adding after the word "sale" in the 4th line of said section, the following: "The fiscal year shall end on the 31st day of December of each year."

§ 5. SEAL OF COMMISSIONER OF SCHOOL AND PUBLIC LANDS TO BE USED.] That Section 27 of Chapter 136 be amended by striking out all of line two (2) after the word "purchaser," and all of line three (3) and all of line four (4) up to and including the word "sales," and also, that Section 28 of said Chapter 136 be amended by striking out of said section the words "under the great seal of the state" in line 3 of said section, and insert in line 4 thereof, after the words "public lands" the following words: "Under the seal of his office."

§ 6. BOARD OF APPRAISERS—DUTIES OF.] That the following be added to said Chapter 136, to be known as Section 32: A board of appraisers is hereby created in each organized county of the state, consisting of the board of county commissioners and the county superintendent of schools, whose duty it shall be on the next Wednesday after the first Monday of January in each year, to make a minimum leasing appraisal of each school section or part of school section in their respective counties. A report of such appraisal shall be forwarded by said board of appraisers to the commissioner of school and public lands on or before the 10th day of January in each year, and it shall be the duty of the board of school and public lands to adjust and revise the leasing rates of the different counties in accordance with the several reports received by them from such boards of appraisers.

§ 7. SECTION THIRTY-TWO TO BE RE-NUMBERED.] That Section 32 of said Chapter 136 be re-numbered, and that said section be numbered 33.

§ 8. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved March 7, 1891.

SCHOOL TEXT-BOOKS.

CHAPTER 104.

[H. B. 41.]

ESTABLISHING COUNTY UNIFORMITY OF TEXT-BOOKS.

AN ACT to Establish County Uniformity of School Text-Books and Supply the Same at Cost.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COUNTY BOARD OF EDUCATION CONSTITUTED.] The county superintendent, the county auditor, and one person appointed by the school officers of each school or civil township, shall constitute the county board of education, for the purpose of prescribing the school text-books to be used in their respective counties. The county superintendent shall in all cases be chairman, and the county auditor secretary of said board. *Provided,* That when the counties are not organized into civil townships one person from each school district shall be appointed to be a member of the county board. *Provided,* The question of adopting the [a] uniform series of text-books for the counties as herein after provided shall be submitted to the people at the school election held in June, 1891, and the clerk of each school corporation shall make full returns of said election to the county superintendent.

§ 2. DUTIES OF COUNTY BOARD OF EDUCATION.] If the vote mentioned in [the] last section be in favor of adopting uniform system of text books, the county board of education shall meet at the office of the county superintendent of schools on the second Tuesday of July, 1891, and select a complete series of text-books to be used by all the schools of the county. Before selecting and adopting the text-books they shall take into consideration the books used in the county, and most carefully consider the price, the type, the material, the binding and other items that go to make up a desirable text-book, and no text-book shall be adopted whose price is above the contract or wholesale price at which said books were furnished to any other state, county or school corporation in the United States during the year 1890. The county superintendent shall, annually, at the

close of the year, make a report to the county board of education as to the operation of the school book contract.

§ 3. COUNTY SUPERINTENDENT TO NOTIFY BOARD—TO FURNISH INFORMATION.] The county superintendent shall notify each member of the county board of education, in writing, of the time and place of meeting at least ten days before the date of said meeting. He shall prepare and furnish such information as shall assist the board in acting for the best interests of the people.

§ 4. COUNTY BOARD TO CONTRACT WITH PUBLISHERS.] The county board of education shall contract with the publishers designating the price at which the books shall be furnished to them, or their authorized agents, and shall arrange for one or more depositories in the county where books shall be sold to the pupils or to school corporations at cost, and they may pay for the books out of the county fund on warrants made by the secretary and approved by the president of the board of education.

§ 5. PAYMENT FOR BOOKS.] The county board of education shall supply the books procured under the provisions of this act to the person appointed by each school corporation upon payment for the same either by cash or school warrant.

§ 6. PRICE LIST OF BOOKS TO BE POSTED IN SCHOOL ROOM.] The county board shall furnish a printed list of the books adopted, designating the retail price of each, and supplying one or more copies to each school corporation. The secretary of each school corporation shall post said price list in each school room under his jurisdiction.

§ 7. SCHOOL CORPORATION TO BUY BOOKS AND SELL SAME AT COST.] Any school corporation is hereby authorized to buy its school books and to pay for the same out of the contingent fund and to sell the same to the pupils of their respective corporations at cost, and the money so received for the sale of said school books shall at the first of each calendar month be returned to the treasurer of said school corporation. The school corporation may require the person or officer that they may designate to handle the books to give a bond in such sum as said school corporation may determine.

§ 8. BOOKS MAY BE FURNISHED FREE.] Upon a written petition of a majority of the electors of any school corporation, or a majority of the vote cast at any regular school election, by giving ten days notice of such election asking that the school books be furnished free to the pupils, it shall be the duty of said board to arrange and furnish the free use of books to the pupils of such corporation under such rules and regulations as said school board may determine.

§ 9. BOOK-CASE TO BE PROCURED—INVOICE AT CLOSE OF TERM.] Said school board must procure a safe book-case

in which said books shall be kept whenever it shall have been decided to supply its school books direct to the pupils, and a careful invoice must be reported at the close of each term by the secretary. The books shall remain the property of the school corporation and can only be used on order of the board.

§ 10. BOOKS NOT TO BE CHANGED FOR FIVE YEARS.] Books once adopted or contracted for under the provisions of this act, shall not be changed for a period of five years.

§ 11. INDEPENDENT DISTRICTS NOT REQUIRED TO USE BOOKS ADOPTED BY COUNTY BOARD OF EDUCATION.] All cities and towns organized and known as independent districts, and having a population of one thousand or more inhabitants, shall not be required to use the books adopted by the county board of education, but nothing in this act shall prevent any city or town using the books prescribed by the county board of education, if said city or town school board shall so decide. But all school corporations thus exempted from using the books prescribed for the county by the county board of education must prescribe text-books for the use of said school. No book shall be accepted on contract by the county board of education in excess of the following prices, to-wit: Graded Speller 15 cents, First Reader 10 cents, Second Reader 20 cents, Third Reader 30 cents, Fourth Reader 40 cents, Highest Reader 90 cents, Elementary Geography 50 cents, Advanced Geography 75 cents, Primary Arithmetic 25 cents, Intermediate Arithmetic 35 cents, Complete Arithmetic 50 cents, Physiology and Hygiene 50 cents, History of the United States 80 cents; other necessary books shall be purchased and contracted for at proportionate prices with this list.

§ 12. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 13. EMERGENCY.] Whereas an emergency is declared to exist, this law shall be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE. The foregoing act having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state, with his objection, within the time prescribed by the constitution, has become a law without his approval.

A. O. RINGSRUD,
Secretary of State.

SECRETARY OF STATE.

CHAPTER 105.

[S. B. 174.]

DEFINING THE DUTIES AND POWERS OF THE SECRETARY OF STATE.

AN ACT to Define the Duties and Powers of the Office of the Secretary of State.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SECRETARY OF STATE SHALL BE CUSTODIAN.] That the secretary of state is charged with the custody:

First. Of all acts and resolutions passed by the legislature.

Second. Of the journals of the legislature.

Third. Of the great seal of the state.

Fourth. Of all books, records, deeds, parchments, maps and papers required to be kept on deposit in his office pursuant to law.

Fifth. Of the enrolled copy of the constitution.

Sixth. He is the superintendent and shall have charge of the state capitol grounds and buildings, together with such property therein as is not specially entrusted to other officers by law, and shall keep the same in good order and repair, and shall adopt such measures as he may deem necessary to protect the same from injury or deterioration.

Seventh. He shall provide fuel and light for all state officers having their offices or chambers at the state capitol, and shall also provide records, blanks, stationery and other necessary supplies and furniture for the use of the senate and the house of representatives when in session.

Eight. He is ex-officio state librarian, and as such is charged with the care and custody of all books, papers, documents and records belonging to the state library, and shall keep and preserve the same in such manner as by law provided.

§ 2. DUTY OF THE SECRETARY OF STATE.] It is the duty of the secretary of state:

(A) To keep a register of such official acts of the governor, to which attestation over his signature and the great seal is required.

(B) To affix the great seal, with his attestation, to all commissions, pardons and other public instruments to which the signature of the governor is required, and also in attesting and authenticating all certificates, charters and any and all other documents properly issued by the said secretary.

(C) To record in proper books all conveyances made to the state, all appointments and commissions made by the governor, all articles of incorporation and amendments thereof, letters patent, deeds, certified copies of franchises, or other papers, and all official bonds filed in his office, except bonds of notaries public.

(D) To receive, file and keep on file any document, official oath, official bond, articles of incorporation and amendment thereof, and letters of acceptance which the law requires to be filed in his office.

(E) To furnish on demand to any person, company or corporation having paid the lawful fees therefor, a certified copy, or copies of all, or any part of, any law, record or other instrument kept on file in his office.

(F) To employ a competent person as janitor, whose duty it shall be to attend to the heating, lighting and cleaning of the state house and of the several offices therein, under such rules and regulations as the secretary of state may prescribe, and who shall be paid such compensation for his services as the legislature may appropriate for such purpose. In case of actual necessity the secretary may, temporarily employ such assistance to the janitor as may be needed.

(G) To immediately, previous to any regular session of the legislature, cause the legislative halls to be suitably prepared for such purpose; to prepare from the proper election returns filed in his office a roll of all senators elect, and shall deliver the same to the president of the senate at least 30 minutes before the time fixed by law for the opening of the session; to prepare from said election returns a roll of all the members elected to the house of representatives, and shall at the time fixed by law call the said members enrolled to order and shall preside until a speaker is elected.

(H) To have sole and exclusive control of the funds appropriated for the maintenance of the state house, and shall draw on the same only for the purpose of keeping the capitol grounds and buildings in good order, cleanliness and repair, and for the purpose of providing the offices mentioned in Subdivision 7 of Section 1 of this act with fuel, light and other like necessities, and the state auditor shall draw his warrants upon the state treasurer in the amounts specified in the bills against said fund whenever such bills, properly endorsed by the said secretary shall be presented to him, and the said auditor shall draw warrants against said fund in no other manner.

The secretary of state shall include an itemized account of the manner in which said funds were expended in his biennial report to the governor, which said report is hereinafter provided for.

(I) To present to the speaker of the house of representatives, and to the president of the senate at the beginning of each regular session, a full and itemized account of all expenses incurred by him on account of the state in furnishing records, blanks, stationery and other necessary supplies for the legislature as provided for in Subdivision 7 of Section 1 of this act, together with such suggestions as he may deem necessary and proper.

(J) To report biennially to the governor the business transactions of the different branches of his office during the preceding years, the fees collected and paid into the state treasury, the expense incurred, the deficiencies, if any, and such other matters as are usually included in similar reports to the governor.

(K) To keep a fee book in which shall be entered all fees collected by him, with the date, name of payor and the nature of the services in each case, which fees so collected by him, together with the proceeds of the sale of Session Laws, or other statutes, shall be paid into the state treasury quarterly, and report thereof made as provided by law.

§ 3. SHALL HAVE GENERAL SUPERVISION OF CORPORATIONS.] The secretary of state shall have a general supervision of the incorporation of all private corporations organized under the laws of this state, except insurance companies. Whenever articles of incorporation with application for a charter shall be presented to him, he shall carefully examine such articles, and if he is satisfied upon such examination that such articles are complete and that the corporation is being formed for lawful purposes, a charter shall be issued. But if he shall find that such articles of incorporation are incomplete in any material point, or that such corporation is being formed for unlawful purposes, or for the purpose of aiding in the formation of (an) unlawful combination or trust, he shall in such case return such articles to the incorporators with his reasons therefor, and shall withhold the charter until such articles shall have been made to comply with the law. He shall in like manner and with the same authority, examine the articles of incorporation of any foreign corporation except foreign insurance companies that may be filed in his office in pursuance of law, and if he shall find that such articles of incorporation contain no conflicting provision to the laws of this state, and that such company or corporation has appointed a resident agent or attorney, in compliance with law, he shall issue to such corporation a certificate of authority to transact its business in this state, for which

services he shall collect the same fees as are provided for examination of articles of incorporation of domestic corporations and the issuance of a charter, and in no case shall a domestic or foreign corporation be allowed to transact any business in this state until such corporation shall have received a charter or certificate of authority as hereinbefore provided.

§ 4. MAY SELL LAWS.] The secretary of state is hereby authorized to sell at a fair price, and in no case for less than fifteen per cent above cost, any surplus of session laws, and of compiled or revised statutes of this state, and to turn the proceeds of such sales over to the state treasury as provided by law.

§ 5. SHALL HAVE GENERAL SUPERVISION OF PRINTING SESSION LAWS.] As soon as practicable after adjournment of each regular session of the legislature, the secretary of state shall give notice by publication for a period of three weeks or more in three or more newspapers of general circulation in the state, or by letters, that sealed proposals will be received at his office up to a certain day specified in said notice, for the printing and binding of the session laws, and such other printing and binding as the legislature may have ordered through his office. No proposal shall be considered by him unless it is accompanied by an acceptable bond, duly executed by such bidder to the State of South Dakota, with two or more sureties, who must justify in a penal sum of at least five thousand dollars, conditioned for the prompt and faithful performance of such contract as may be awarded to him. He shall also arrange in proper order all laws enacted by the legislature, and prepare copies thereof for the use of the printer, and shall have and exercise a general supervision of the work. He may also let by contract such other work for the state, and the furnishing of supplies when in his opinion the best interests of the state will be subserved thereby.

§ 6. DISTRIBUTION OF LAWS—EXPENSE—HOW PAID.] Immediately after the laws are bound the secretary of state must distribute the same to such officers as are entitled to a copy thereof as provided by law. He shall also send a copy to each department of the government at Washington, to the library of congress five copies, to the state library of each state and territory in the union one copy, in exchange, and deposit in the state library of this state one hundred and fifty copies for the use of the legislature when in session. The expense incurred for postage and express in carrying out the provisions of this section shall be certified to the state auditor, who shall thereupon draw his warrant upon the state treasurer, in favor of the secretary of state, for the full amount of such postage and express charges.

§ 7. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 8. EMERGENCY.] There being now no law in force defining the powers and duties of the office of the secretary of state, therefore, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1891.

SESSION LAWS.

CHAPTER 106.

[S. B. 15.]

PROVIDING FOR THE PRINTING OF THE SESSION LAWS IN SUPPLEMENT FORM.

AN ACT Providing for the Printing of the Session Laws in Supplement Form for General Distribution.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SECRETARY OF STATE TO AWARD CONTRACT TO LOWEST BIDDER.] The secretary of state shall immediately after the final adjournment of the legislature secure the printing from the lowest responsible bidder, in the form of a newspaper supplement, of sixty thousand copies of all general laws passed during the session. *Provided*, The printing and distribution of said supplements shall not cost the state to exceed the sum of \$500.00.

§ 2. MANNER OF DOING PRINTING.—TIME LIMITED.] The publisher securing this contract shall distribute said supplements directly to the several newspapers, agreeing to distribute the same according to the provisions of Section 3 of this act, and all bidders shall include the cost of distribution in their bid, and shall have said supplements printed and distributed to the several newspapers within forty (40) days after the adjourn-

ment of the legislature, and the type used shall be nonpareil, set solid.

§ 3. COPIES TO BE SENT TO EACH NEWSPAPER IN THE STATE.] As many copies of the laws thus provided shall be sent to each newspaper in the state as are necessary to supply each county subscriber, if the publishers of said papers shall agree to fold said supplement and mail the same to their subscribers in their county without charge.

§ 4. EMERGENCY.] Whereas, an emergency exists, therefore this act shall be in force on and after its passage and approval.

Approved March 7, 1891.

SHEEP INSPECTOR.

CHAPTER 107.

[S. B. 262.]

RELATING TO THE INSPECTION OF SHEEP.

AN ACT to Amend Chapter 135 of the Laws of 1885 in Relation to the Inspection of Sheep.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPOINTMENT AND TERM OF OFFICE.] That Section one, Chapter one hundred and thirty-five of the Laws of 1885 be amended to read as follows: In every county in this state containing two thousand sheep or more, the county commissioners shall appoint a sheep inspector, who shall be selected by the sheep owners of the county at a meeting for that purpose; such inspector shall hold his office for the period of two years, unless removed for cause. Any inspector may act in an adjoining county having no inspector on the request of the commissioners thereof. The meeting mentioned in this section shall be called by the county commissioners, and they shall give notice of such meeting by notice published in a newspaper of the county for two successive weeks prior to the date of the

meeting, and the first publication shall be at least twenty days before the day fixed for the meeting, and said notice shall give time and place of holding the same.

§ 2. DUTIES OF SHEEP INSPECTORS.] That Section two of Chapter one hundred and thirty-five of the Laws of 1885 be amended to read as follows: It shall be the duty of the sheep inspector whenever he shall have knowledge or information that any sheep within his jurisdiction have the scab or any other malignant contagious disease, to inspect said flock and report in writing the result of his inspection to the county auditor of his county, to be filed by him for reference for the county commissioners or any party concerned, and said inspector shall give to owner or agent directions for treatment, and require from same a report every month thereafter until the inspector is satisfied that the disease is cured, when he shall again inspect the flock and give his certificate of freedom from disease, and make report. The certificate of freedom mentioned in this section shall be a passport for all other counties in the state into which said sheep may be moved.

§ 3. DUTIES OF OWNER OR AGENT OF DISEASED FLOCK.] That Section four, Chapter 135 of the Laws of 1885 be amended to read as follows: The owner of any flock, or his agent in charge thereof, when the same is reported by the inspector to be so diseased shall immediately herd or house the same, or keep in some inclosure so that they cannot range upon any ground accustomed to be ranged upon by any other sheep, and shall restrain them from passing over or traveling upon any public highway or road. The owner of such sheep or his agent in charge thereof shall at once follow any directions for treatment prescribed by the inspector, and promptly and faithfully carry out the same until a cure is effected, and shall report to the inspector as provided in Section 2, Chapter 135 of the Laws of 1885, being section 2352, Compiled Laws. In all cases where the owner of sheep or his agent in charge thereof believe themselves wronged by the report or action of the inspector, they may appeal to the veterinarian of the state agricultural college; such appeal to be made by notice in writing served upon the inspector and upon the county clerk. Within five days after the service of notice on the county clerk he shall forward all papers filed with him and referring to such matter to the said veterinarian aforesaid.

§ 4. RECORD OF OFFICIAL ACTS OF INSPECTOR.] That Section 8, Chapter, 135 of the Laws of 1885 be amended by striking out the words "register of deeds" where they occur in said section, placing the words "county auditor" in place thereof.

§ 5. FEES OF INSPECTOR.] That Section 9, Chapter 135 of the Laws of 1885 be amended to read as follows: The inspec-

tor shall receive three dollars per day while necessarily employed in inspecting sheep, and all fines and penalties shall be paid to the county treasurer, to be set aside as an inspection fund.

§ 6. FALSE REPORT—PENALTY.] That Section 11, Chapter 135 of the Laws of 1885 be amended to read as follows: Whenever any sheep inspector shall wilfully and falsely report any sheep to be affected with disease, or wilfully and falsely report any sheep inspected by him free from disease he shall forfeit his office as inspector and shall be subject to a penalty of not less than twenty-five dollars nor more than one hundred dollars.

§ 7. SHEEP INSPECTORS' FUND—WHAT SHALL CONSTITUTE.] That Section 14, Chapter 135 of the Laws of 1885 be amended by striking out the word "fees" wherever the same occurs in said section, and insert in place thereof the word "service."

§ 8. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 7, 1891.

STATE'S ATTORNEY.

CHAPTER 108.

[S. B. 16.]

RELATING TO THE APPOINTMENT OF DEPUTY STATE'S ATTORNEY.

AN ACT to Amend Section 1, of Chapter 6, of the Political Code being Section 1397 of the Compiled Laws of 1887, Relating to the Appointment of Deputy State's Attorney.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT—STATE'S ATTORNEY MAY APPOINT DEPUTY.] That Section 1, of Chapter 6, of the Political Code, being Section 1397 of the Compiled Laws of 1887, be amended by adding to said section the following, to-wit:

The state's attorney may appoint a deputy, who shall be an attorney of record. During such deputyship the person so appointed shall be vested with all the powers of such state's attorney. *Provided*, however, all fees for services performed or expenses incurred by such deputy shall be paid by the state's attorney.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 3, 1891.

STATE FUNDS.

CHAPTER 109.

[S. B. 251.]

RELATING TO TRANSFER OF FUNDS.

AN ACT to Provide for the Transfer by the State Treasurer of Five Hundred Eighty-eight Dollars and Eighty Cents, from the General Fund to the Settlement Fund of Outstanding Indebtedness of the Territory of Dakota to be Paid by the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TRANSFER AUTHORIZED.] That the state treasurer be and is hereby authorized to transfer five hundred eighty-eight dollars and eighty cents from the general fund to the settlement fund used in payment of the outstanding claims against the Territory of Dakota and assumed by the State of South Dakota by order of the settlement commission.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

STATE HOUSE.

CHAPTER 110.

[H. B. 298.]

PROVIDING AUTHORITY FOR LEASING AND ENLARGING THE STATE HOUSE.

AN ACT Providing Authority for Leasing a Portion of the State House,
and for Furnishing and Enlarging the Same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COMMISSION CREATED.] That the governor, the auditor, secretary, treasurer and the commissioner of school and public lands be constituted a commission to lease portions of the state house to the United States government for court purposes, and that said commission have power to enlarge the state house, to accommodate the court, and provide suitable offices for state officers as follows:

§ 2. COMMISSION AUTHORIZED TO LEASE.] The commission are authorized to lease a portion of the state house to the United States government for the purpose of holding terms of court, and are authorized to provide furniture for the same.

§ 3. CONTRACT AWARDED TO LOWEST BIDDER.] The commission shall let a contract to the lowest bidder for building an addition to the state house, fifty (50) by sixty (60) feet in size, two stories high, in accordance with plans now on file in the auditor's office, and shall require the bids for same to be accompanied by a bond running to the State of South Dakota in the sum of ten thousand (\$10,000) dollars, conditioned on the faithful performance of the contract, the cost of which addition and furniture shall not exceed seven thousand (\$7,000) dollars. *Provided*, that vaults, sufficient for the use of the state shall be built in said building. *Provided*, such an addition shall not be built or commenced until a lease has been duly entered into by and between the state and the government of the United States.

§ 4. APPROPRIATION.] There is hereby appropriated out of any moneys in [the] state treasury not otherwise appropriated, the sum of seven thousand (\$7,000) dollars, or so much thereof

as may be necessary to carry out the provisions of this act, and the auditor is directed and empowered to draw his warrant or warrants in payment of such sum or such vouchers as he may require, when approved by the commission.

Approved March 7, 1891.

STATE INDEBTEDNESS.

CHAPTER 111.

[H. B. 241.]

PUNISHING THE CREATION OF INDEBTEDNESS AGAINST THE STATE WITHOUT AUTHORITY OF STATUTE.

AN ACT to Punish the Creation of Indebtedness Against the State Without Express Authority of Statute, and the Drawing of any Voucher or Warrant for Payment of any Claim against the State without Express Appropriation first Made Therefor by the Legislature.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1 CREATION OF INDEBTEDNESS WITHOUT APPROPRIATION PROHIBITED.] Any state officer, any member of the board of charities and corrections, regents of education, member of board of trustees of any public institution or superintendent of the same, or any other agent of the State of South Dakota who shall create or attempt to create any indebtedness against the state without express authority of the statute so to do, or any state auditor or member of any auditing board who shall draw any voucher or warrant without appropriation for the specific purpose first having been made by the legislature, or any state treasurer or treasurer of such board who shall pay any voucher or warrant so drawn, or who shall make or attempt to make any expenditures of money in excess of the amount appropriated for any purpose by act of the legislature, shall be deemed guilty of a misdemeanor.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

STOCK GROWERS.

CHAPTER 112.

[H. B. 6.]

PROVIDING FOR THE PROTECTION OF STOCK GROWERS.

AN ACT to Protect Stock Growers in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. RECORD TO BE KEPT.] Any person now engaged, or who may hereafter engage in the business of a butcher in this state shall keep a record of all branded beef animals he may slaughter, giving age, sex, marks and brands, of whom purchased and date of said purchase, which record shall at all times be open for public inspection at his place of business.

§ 2. HIDES TO BE EXHIBITED WHEN MEAT IS OFFERED FOR SALE.] It shall be unlawful for any person or persons who occasionally slaughter cattle for beef, to offer for sale said beef, without exhibiting the hide or hides of such beef at the time and place said beef is offered for sale. And it is provided further that the brand or brands on the hide so exhibited must not have been changed, mutilated or destroyed.

§ 3. HIDES TO BE KEPT FOR TEN DAYS.] All persons other than butchers who occasionally slaughter cattle for beef, either for home consumption or other purposes, shall keep the hide or hides of such branded animals so slaughtered for a period of not less than ten days, subject to inspection by any person or persons.

§ 4. PENALTY.] Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not exceeding five hundred (\$500) dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 19, 1891.

SYSTEM OF ACCOUNTS.

CHAPTER 113.

[S. B. 59.]

PROVIDING FOR A SYSTEM OF ACCOUNTS FOR THE STATE
AUDITOR AND TREASURER.

AN ACT to Provide for a System of Accounts for the State Auditor and
State Treasurer.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AUDITOR TO KEEP ACCOUNT WITH COUNTIES.] The state auditor shall keep an account with each organized county of the state, in which account each county shall be charged with the amount of tax due the state, and with all sums hereafter levied in each county for state purposes, and credited with all sums paid into the state treasury on account of such taxes.

§ 2. COUNTY AUDITOR TO FURNISH ABSTRACT.] He shall require county auditors to furnish him with an abstract of the tax lists of their respective counties when the same are completed, on such blanks as he shall prescribe.

§ 3. COUNTY TREASURER REQUIRED TO FURNISH QUARTERLY STATEMENT.] He shall require the several county treasurers to furnish him with a statement, attested by the county auditor, on the first day of March, June, September and December of each year, and at such other times as he may deem expedient, showing the amount of state taxes collected, also all penalty and interest on the same, also amounts refunded, treasurer's commission and cash balance at the date designated, which statement shall be forwarded to the state auditor within five days after the date statement is called for.

§ 4. STATE AUDITOR TO DRAW ON COUNTY TREASURER AND DELIVER TO STATE TREASURER.] The state auditor shall after receiving the quarterly statement or other statements provided for in Section three (3) of this act, draw and deliver to the state treasurer, an order on each county treasurer for the total amount so certified as collected for the state, less refunds and commissions only, and charge the state treasurer with the same, giving the county credit for the amount, and

sending to the county auditor of each county a duplicate of such order or draft.

§ 5. COUNTY TREASURER TO MAKE ITEMIZED STATEMENT OF TOTAL AMOUNT OF TAX COLLECTED FOR STATE.] The state treasurer shall notify each county treasurer of the amount of such draft or order, and the county treasurer shall forward to the state treasurer immediately after receiving such notice the total amount of the tax collected for the state, less only refunds and treasurer's commissions, together with an itemized statement of the same, upon blanks furnished by the state treasurer, and upon receipt of the same the state treasurer shall forward such draft or order to the county treasurer with his endorsement, and such draft or order shall be the county treasurer's receipt for the amount stated.

§ 6. FAILURE TO COMPLY—PENALTY.] Any county treasurer or county auditor failing or neglecting to comply with the requirements of this act shall be deemed guilty of a misdemeanor, and the state's attorney of the county shall prosecute such treasurer or auditor upon information of the state auditor, and all fines shall be paid into the county treasury, and shall be placed to the credit of the state fund.

§ 7. STATE AUDITOR TO DRAW ON CORPORATIONS IN FAVOR OF TREASURER FOR TAX DUE.] All telephone, telegraph, express and sleeping car companies or other corporations required by law to pay taxes or assessments to the state treasurer shall report to the state auditor the sums or amounts upon which such tax or assessment is required by law to be levied, and the state auditor shall draw on such companies or corporations for the sum due, as levied and assessed by the state board of assessment and equalization, making the draft payable to and delivering the same to the state treasurer and charging him with the amount of such draft.

§ 8. DUPLICATE RECEIPTS TO BE TAKEN.] Every state officer required by law to pay moneys into the state treasury shall take duplicate receipts for such payments, one of which shall be filed with the state auditor, who upon the receipt of the same shall charge the treasurer with the amount thereof.

§ 9. APPORTIONMENT TO BE MADE BY AUDITOR AND TREASURER.] The apportionment of all moneys paid into the state treasury any part of which is required by law to be paid to the several counties, or to municipal corporations, shall be made by the auditor and treasurer. The auditor shall and he is hereby authorized to draw his warrants on the state treasurer for the amounts found due each county or corporation, and forward the same to the treasurer of such county or corporation, and at the same time send a written notice to the auditor of such county or corporation stating the amount so apportioned.

§ 10. MONEY TO BE PAID OUT ONLY ON AUDITOR'S

WARRANT.] Moneys shall be paid from the state treasury only upon the auditor's warrant, and each warrant shall specify upon what fund or from what appropriation such warrant is to be paid. *Provided, however,* That the treasurer may redeem outstanding bonds, pay interest on bonds when due, and interest on warrants without the auditor's warrant, retaining such bond or interest coupon as his voucher for such payment until the next succeeding settlement, and endorsing on each warrant the amount of interest paid thereon.

§ 11. AUDITOR TO KEEP ACCOUNT CURRENT WITH TREASURER.] The auditor shall keep an accurate account current with the treasurer, charging him with all moneys received, and crediting him with all sums paid out, upon the surrender of the vouchers for such payments.

§ 12. TREASURER AND AUDITOR TO SETTLE MONTHLY.] The treasurer and auditor shall on the first day of each month have a full settlement of the business of the preceding month, at which settlement the treasurer shall turn over to the auditor all vouchers for payments made by him, taking the auditor's receipt for the same.

§ 13. AUDITOR AND TREASURER TO KEEP SEPARATE ACCOUNTS.] The auditor and treasurer shall each keep separate accounts with the several appropriations made by the legislature, and also with each fund created by the sale of bonds, and each current or permanent fund created by law.

§ 14. AUDITOR TO COPY TREASURER'S ASSESSMENT LEDGER.] In order to comply with the provisions of Section one (1) of this act, the auditor is hereby required to copy or transfer the balance of the several accounts in the "Treasurer's Assessment Ledger," in opening the accounts provided for in said section.

§ 15. REPEAL.] All acts or laws or parts of acts or laws in so far as they conflict with the provisions of this act are hereby repealed.

Approved February 23, 1891.

TOLLS ON WAGON ROADS.

CHAPTER 114.

[H. B. 167.]

RELATING TO TOLLS ON WAGON ROADS.

AN ACT to Amend Chapter One Hundred and Thirty of the Session Laws of the State of South Dakota, Approved March 7, A. D. 1890, Relating to Tolls on Wagon Roads.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. AMENDMENT—LAWFUL TOLLS.] That Chapter one hundred and thirty of the Session Laws of the State of South Dakota of 1890, be amended to read as follows: It shall not be lawful for any corporation or individual operating or maintaining a wagon road in this state, to charge, demand, or receive a greater sum for toll thereon than is in this act established, to-wit:

One horse and rider one way	5 cents.
One horse and vehicle one way	10 cents.
Two horses and vehicle one way	15 cents.
Two horses and vehicle round trip	20 cents.
Each additional span one way	5 cents.
Loose stock per head one way	2 cents.

§ 2. CHARGING UNLAWFUL TOLLS A MISDEMEANOR.] Any person charging, demanding or receiving more toll than is allowed by Section 1 of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars for each offense.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

WAREHOUSE SITES.

CHAPTER 115.

[S. B. 210.]

CONDEMNATION OF PUBLIC WAREHOUSE SITES.

AN ACT to Provide a Procedure for the Condemnation of Public Warehouse Sites on the Right of Way of Railways.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. RAILROAD COMMISSIONER TO DETERMINE.] Whenever any person or firm shall have been refused the privilege of constructing a public warehouse upon the right of way, depot grounds or warehouse lots of any railway, at any station thereon, in the State of South Dakota, it shall be the duty of the board of railway commissioners to, within three days after being requested so to do, proceed to the station where such public warehouse site is desired, and upon investigation and consideration of the existing warehouse facilities at such station, and of all the circumstances surrounding the case, determine whether the welfare of the public would be advanced by the construction of another public warehouse at said station.

§ 2. FINAL DECISION.] If the said board of railway commissioners shall after such consideration determine that the public welfare would not be advanced by the construction of another warehouse at said station, the said board shall so inform the applicant for said site, and such determination shall be final and no further procedure shall be had in the premises.

§ 3. RAILROAD COMMISSIONERS TO SELECT LOCATION.] If the said board of railway commissioners shall determine after due investigation that the construction of such warehouse is necessary and that the public welfare will be advanced thereby, then it shall be the duty of said board to fix the location of said public warehouse upon the right of way, depot grounds or warehouse lots of the railway company concerned, having in view in fixing such location the interests and convenience of said railway company and of the public, and a memorandum of such determination and of the location so selected shall be furnished to the applicant of such public warehouse site.

§ 4. BOARD OF APPRAISERS—DUTIES OF.] The applicant for such public warehouse site may thereupon, after five days notice to such railway company, which notice shall be served as summons are required by law to be served in civil actions, apply to the circuit court in and for the county where such proposed public warehouse is situated, for the appointment of three appraisers, whose duty it shall be to determine the damage sustained by said railway company by the use and occupancy of such site for such public warehouse; such appraisers shall be freeholders of the county wherein such site is located, and shall not be interested in a like question. The appraisers shall be duly sworn to perform their duties impartially and justly; they shall inspect the said location and consider the injury which said railway company will sustain by the erection of said public warehouse upon the said site and the occupancy thereof, and shall assess the damage which such company will sustain by the occupancy of said site for such public warehouse purposes, and they shall forthwith make report, in writing, to the clerk of such court setting forth the description, boundaries and amount of damage to such right of way which they assess, to said applicant, which report must be filed and recorded by the clerk, and a certified copy thereof may be transmitted to the register of deeds of the county where the site is situated, to be by him filed and recorded, without further proof or acknowledgment, in the same manner and with the same force and effect as provided for the record of deeds.

§ 5. PAYMENT OF DAMAGES—HOW TENDERED.] The applicant for such public warehouse site may thereupon pay or tender the payment of the damages so assessed by depositing the same with the clerk of said court for the benefit of said railway company, and thereupon and thereafter may proceed to erect a public warehouse upon the site so selected and condemned as hereinbefore provided and to occupy the same. The right of occupancy only being vested in said applicant or his or their heirs and assigns.

§ 6. APPEAL MAY BE TAKEN.] That either party may appeal to the circuit court from the assessment of the said appraisers within thirty days after the said report is filed with the clerk of the court as hereinbefore provided, and the trial of such appeal shall be conducted in all things as a trial of a civil action in such court, but if the appellant does not recover a verdict more favorable to said appellant than the assessment of the appraisers he shall not recover costs in the circuit court, and all costs of said appeal shall be taxed against said appellant. Such appeal shall not interfere with the right of the applicant to occupy such site and to erect a public warehouse thereon, but such railway company shall have a first lien upon any building so erected for any increase of damages re-

covered in the circuit court, together with the costs incident thereto.

§ 7. CONDEMNATION—EXTENT OF LIMITED.] Such condemnation of said right of way, depot grounds or warehouse lots and such right of occupancy shall only extend to so much of said grounds as is necessary for the accommodation of such public warehouse, and for the convenient operation thereof together with necessary grounds to afford access thereto from the nearest public thoroughfare.

§ 8. PAY OF APPRAISERS.] Each of the appraisers shall be entitled to a fee of one dollar and to ten cents for each mile necessarily traveled in making such appraisal.

§ 9. COSTS TO BE PAID BY APPLICANT.] All costs incident to the appointment of appraisers and to the appraisal of damages provided for herein shall be paid by the applicant for said public warehouse site.

§ 10. FACILITIES FOR SHIPPING.] That upon the application of any person or firm owning or occupying any public warehouse, or any mill adjacent to the right of way of any railway company, such person or firm shall be granted the same facilities for shipping that are granted any other shipper at the same place.

§ 11. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1891.

TITLES OF
JOINT RESOLUTIONS AND MEMORIALS

Passed by the Legislature of 1891, and Not Published in
this Volume.

A MEMORIAL from the Legislature of the State of South Dakota, to the Secretary of War, asking that four companies of the army of the United States be stationed at Fort Randall, South Dakota.

A JOINT RESOLUTION AND MEMORIAL to the Congress of the United States, in relation to the purchase from the State of South Dakota the property now used as a Soldiers' Home, at Hot Springs, Fall River county, and the establishment there by Congress of a National Home for disabled volunteer soldiers.

A JOINT MEMORIAL TO CONGRESS, requesting the United States to reimburse the State of South Dakota for moneys paid out for the protection of the people of South Dakota from Indian molestations and depredations during the late Indian outbreak.

HOUSE JOINT RESOLUTION, relating to Indian Affairs in the State of South Dakota.

A JOINT RESOLUTION AND MEMORIAL TO CONGRESS, asking that an Amendment to the Constitution of the United States, providing for the election of United States Senators by a direct vote of the people be proposed and submitted to the several states.

HOUSE JOINT RESOLUTION, relating to the petition of numerous settlers in Fall River county, asking the War Department to establish a military post at Oelrichs.

JOINT MEMORIAL AND RESOLUTION, requesting South Dakota senators and representatives in congress to use their influence to extend and enlarge the quarters at Ft. Meade, South Dakota, and increase the number of troops.

A JOINT MEMORIAL TO CONGRESS with reference to seed grain and feed for animals.

A JOINT RESOLUTION to appoint a joint committee of three on printing.

A JOINT RESOLUTION AND MEMORIAL to Congress, relative to final proof on tree claims.

A JOINT RESOLUTION memorializing the Congress of the United States, relative to the free coinage of silver.

JOINT MEMORIAL TO CONGRESS with reference to the opening of the Sisseton and Wahpeton reservation and the payment of balance due the Indians of that tribe.

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